

Case: Tina Moore, et al. v. Brian
Kaminski, et al.

4:14-CV1443 SNLJ

Transcript of: Thomas Jackson

Date: September 18, 2015

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EXHIBIT

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Tina Moore, et al. v. Brian Kaminski, et al.

Thomas Jackson

September 18, 2015

<p style="text-align: right;">1</p> <p>TINA MOORE, Individually and as Personal Representative of the ESTATE OF JASON MOORE, DELORES MOORE, and RENEE ROGERS, as Next Friend for A.D.R., a Minor,</p> <p style="text-align: center;">PLAINTIFF(s),</p> <p>vs.</p> <p>BRIAN KAMINSKI, ET AL.,</p> <p style="text-align: center;">DEFENDANT(s).</p> <p>VIDEOTAPED DEPOSITION OF THOMAS JACKSON SEPTEMBER 18, 2015</p>	<p style="text-align: right;">3</p> <p>1 VIDEOTAPED DEPOSITION OF THOMAS JACKSON, taken 2 on behalf of the Plaintiffs, at the offices of 3 Pitzer Snodgrass, P.C., 100 South 4th Street, 4 Suite 400, in the City of St. Louis, State of 5 Missouri, between the hours of 9:00 a.m. and 6 2:55 p.m., on the 18th day of September, 2015, 7 before Nancy N. Abdallah, RPR, MO-CCR #888, and 8 Notary Public. 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">2</p> <p>1 UNITED STATES DISTRICT COURT 2 FOR THE EASTERN DISTRICT OF MISSOURI 3 EASTERN DIVISION 4 5 TINA MOORE, Individually and as Personal 6 Representative of the ESTATE OF JASON 7 MOORE, DELORES MOORE, and 8 RENEE ROGERS, as Next Friend for 9 A.D.R., a Minor, 10 11 PLAINTIFF(s), 12 13 vs. Case Nos. 4:14-CV1443 SNLJ 14 4:14-CV1447 SNLJ 15 BRIAN KAMINSKI, ET AL., (Consolidated) 16 17 DEFENDANT(s). 18 19 20 21 22 23 // 24 // 25</p>	<p style="text-align: right;">4</p> <p>1 APPEARANCES OF COUNSEL: 2 3 FOR THE PLAINTIFF DELORES MOORE AND RENEE ROGERS, AS 4 NEXT FRIEND OF A.D.R., A MINOR: 5 Todd M. Johnson, Esq. 6 Baty, Holm, Numrich & Otto, P.C. 7 4600 Madison Avenue, Suite 210 8 Kansas City, MO 64122 9 816.531.7200 10 tjohnson@batholm.com 11 12 FOR THE PLAINTIFF TINA MOORE: 13 William T. Dowd, Esq. 14 Dowd & Dowd, P.C. 15 211 North Broadway, Suite 4050 16 St. Louis, MO 63102 17 314.621.2500 18 bill@dowdlaw.net 19 20 21 22 23 24 25</p>

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<p style="text-align: right;">5</p> <p>1 APPEARANCES OF COUNSEL: (CONTINUED)</p> <p>2</p> <p>3 FOR THE DEFENDANT(s):</p> <p>4 Robert T. Plunkert, Esq.</p> <p>5 Ida S. Shafaie, Esq.</p> <p>6 Pitzer Snodgrass, P.C.</p> <p>7 100 South 4th Street, Suite 400</p> <p>8 St. Louis, MO 63102</p> <p>9 314.421.5545</p> <p>10 plunkert@pspclaw.com</p> <p>11 shafaie@pspclaw.com</p> <p>12</p> <p>13 THE VIDEOGRAPHER:</p> <p>14 Mr. Tom Nickeson</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">7</p> <p>1 THE VIDEOGRAPHER: We're on the record at</p> <p>2 9:20 a.m. Today's date is September 18th,</p> <p>3 2015. This is the deposition of Chief Thomas</p> <p>4 Jackson, to be taken in the matter of Tina</p> <p>5 Moore versus Brian Kaminski, et al.</p> <p>6 At this time would counsel please identify</p> <p>7 themselves for the record.</p> <p>8 MR. JOHNSON: Todd Johnson for Plaintiffs</p> <p>9 Renee Rogers and Delores Moore.</p> <p>10 MR. DOWD: Bill Dowd also for Plaintiff</p> <p>11 Tina Moore.</p> <p>12 MR. PLUNKERT: Bob Plunkert for the</p> <p>13 defendants.</p> <p>14 MS. SHAFaIE: Ida Shafaie for the</p> <p>15 defendants.</p> <p>16 THE VIDEOGRAPHER: Thank you. Would the</p> <p>17 court reporter please swear in the witness.</p> <p>18 THOMAS JACKSON,</p> <p>19 having been first duly sworn to testify the truth,</p> <p>20 the whole truth, and nothing but the truth in the</p> <p>21 case aforesaid, deposes and says in reply to oral</p> <p>22 interrogatories, propounded as follows, to-wit:</p> <p>23 EXAMINATION</p> <p>24 QUESTIONS BY MR. JOHNSON:</p> <p>25 Q Sir, would you state your name for the</p>
<p style="text-align: right;">6</p> <p>1 INDEX</p> <p>2 PAGE</p> <p>3 Examination by Mr. Johnson 7</p> <p>4 Examination by Mr. Plunkert 206</p> <p>5 Examination by Mr. Johnson 207</p> <p>6 Examination by Mr. Dowd 207</p> <p>7 Examination by Mr. Plunkert 241</p> <p>8 Examination by Mr. Dowd 244</p> <p>9 Examination by Mr. Johnson 250</p> <p>10 Examination by Mr. Dowd 255</p> <p>11</p> <p>12 PLAINTIFFS' EXHIBITS</p> <p>13 Deposition Exhibit 1 35</p> <p>14 Deposition Exhibit 2 42</p> <p>15 Deposition Exhibit 3 72</p> <p>16 Deposition Exhibit 4 78</p> <p>17 Deposition Exhibit 5 103</p> <p>18 Deposition Exhibit 6 117</p> <p>19 Deposition Exhibit 7 120</p> <p>20 Deposition Exhibit 8 130</p> <p>21 Deposition Exhibit 9 145</p> <p>22 Deposition Exhibit 10 160</p> <p>23 Deposition Exhibit 11 180</p> <p>24</p> <p>25 [Exhibits retained by Mr. Dowd.]</p>	<p style="text-align: right;">8</p> <p>1 record.</p> <p>2 A Thomas Jackson.</p> <p>3 Q Mr. Jackson, Chief Jackson, my name is</p> <p>4 Todd Johnson. I'm an attorney that's been retained</p> <p>5 by some family members of an individual that passed</p> <p>6 away in 2011. We're here this morning at your</p> <p>7 attorney's office for you to give a deposition in</p> <p>8 that case that's now pending in federal court in</p> <p>9 St. Louis. Do you understand that, sir?</p> <p>10 A I do.</p> <p>11 Q I'm going to ask you a series of questions</p> <p>12 probably primarily about the operations of the</p> <p>13 Ferguson Police Department and obviously when you</p> <p>14 were chief of that department.</p> <p>15 If you don't understand any of my</p> <p>16 questions, sir, just ask me to repeat or rephrase my</p> <p>17 question. Can we have that understanding?</p> <p>18 A We do.</p> <p>19 Q Sir, if you don't ask me to repeat or</p> <p>20 rephrase my question, I'll presume that you</p> <p>21 understand my question and you'll give me an answer</p> <p>22 to the best of your ability.</p> <p>23 A Understood.</p> <p>24 Q If you need to take break, please let me</p> <p>25 know, I'd be happy to accommodate you in that</p>

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<p style="text-align: right;">9</p> <p>1 request, okay?</p> <p>2 A Yeah.</p> <p>3 Q Verbal answers are preferred.</p> <p>4 A Yes. I know, I know.</p> <p>5 Q I know you've met with lawyers who</p> <p>6 represent the defendants in this case. If you hear</p> <p>7 me suggest that I need a verbal answer, sir, I'm not</p> <p>8 trying to be rude, I just want to make sure that you</p> <p>9 give a verbal answer so I know what you've said here</p> <p>10 today.</p> <p>11 A I understand.</p> <p>12 Q We do have the benefit of a court</p> <p>13 reporter, we have a videographer, but unlike</p> <p>14 everyday conversation where you may nod your head or</p> <p>15 cut me you off because you know what question's</p> <p>16 coming, it's a little more literal process.</p> <p>17 So I'll do my best also, sir, to let you</p> <p>18 get your answer out, and I'd ask the same courtesy</p> <p>19 to try and let me get my question out. I have a</p> <p>20 tendency to drag on at times, but --</p> <p>21 A Okay.</p> <p>22 Q -- I'll try and do that for you as well.</p> <p>23 Can we have that understanding?</p> <p>24 A We do.</p> <p>25 MR. PLUNKERT: And I'll help out, too,</p>	<p style="text-align: right;">11</p> <p>1 line up the part-time security.</p> <p>2 Q Have you actually done projects with</p> <p>3 Griffin since resigning at Ferguson?</p> <p>4 A Yes, I have.</p> <p>5 Q How many?</p> <p>6 A One.</p> <p>7 Q And where was that located?</p> <p>8 A Well, two, but the second one we canceled,</p> <p>9 we're not doing it, so ...</p> <p>10 Q And where were the projects, sir?</p> <p>11 A The first one was in Denver, outside of</p> <p>12 Denver, and the second one was in Buffalo, New York.</p> <p>13 Q And is this private security services --</p> <p>14 A Yes.</p> <p>15 Q -- that are being furnished?</p> <p>16 A Yes.</p> <p>17 Q And where are Griffin's offices located?</p> <p>18 A O'Fallon, Missouri.</p> <p>19 Q And are you a principal or an owner of</p> <p>20 that company, sir?</p> <p>21 A No. Just an occasional employee.</p> <p>22 Q Sure. On an as-needed basis when projects</p> <p>23 come up?</p> <p>24 A Yes.</p> <p>25 Q When the projects occur, are you actually</p>
<p style="text-align: right;">10</p> <p>1 whenever I can.</p> <p>2 MR. JOHNSON: That's right. We'll all --</p> <p>3 it will be a joint effort.</p> <p>4 BY MR. JOHNSON:</p> <p>5 Q Are you currently working, sir?</p> <p>6 A Not -- not really. I have sort of a</p> <p>7 part-time gig as a project manager for a personnel</p> <p>8 firm, but I don't have a project right now.</p> <p>9 Q Have you had law enforcement jobs since</p> <p>10 resigning with the Ferguson Police Department?</p> <p>11 A No.</p> <p>12 Q I understand that you resigned with the</p> <p>13 Ferguson Police Department last year or earlier this</p> <p>14 year?</p> <p>15 A It was this year, yes.</p> <p>16 Q It was March of 2015?</p> <p>17 A It was.</p> <p>18 Q And what's the name of the personnel firm</p> <p>19 that you're doing work through or certain projects</p> <p>20 with right now, sir?</p> <p>21 A Griffin Personnel Group.</p> <p>22 Q And what's the nature of their business?</p> <p>23 What -- what do they do?</p> <p>24 A They provide temporary security for</p> <p>25 corporations that may be having job actions. I just</p>	<p style="text-align: right;">12</p> <p>1 dispatched to the location and provide the services?</p> <p>2 A On the one -- the one project that went</p> <p>3 through, yes.</p> <p>4 Q And that was the one in Denver or Buffalo?</p> <p>5 A Yes, Denver.</p> <p>6 Q Denver. Okay. The last public agency in</p> <p>7 law enforcement you worked for was the Ferguson</p> <p>8 Police Department, correct?</p> <p>9 A Yes.</p> <p>10 Q And I understand your tenure at Ferguson</p> <p>11 was from approximately 2010 to 2015?</p> <p>12 A March to March, yes, sir.</p> <p>13 Q And when you were working in Ferguson, did</p> <p>14 you always hold the title of Chief of Police?</p> <p>15 A Yes, I did.</p> <p>16 Q And March to March, is there some term of</p> <p>17 employment that runs annually as chief?</p> <p>18 A No. No. I was under no contract.</p> <p>19 Q Prior to working at Ferguson as police</p> <p>20 chief, you worked for the St. Louis Metropolitan</p> <p>21 Police Department?</p> <p>22 A No, that's not correct. I worked for the</p> <p>23 St. Louis County Police Department.</p> <p>24 Q I'm sorry. You worked for the county</p> <p>25 police department as opposed to the city?</p>

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<p style="text-align: right;">13</p> <p>1 A I did.</p> <p>2 Q And it looks like you worked there for</p> <p>3 approximately 20 years?</p> <p>4 A Thirty-one.</p> <p>5 Q Thirty-one.</p> <p>6 A But thank you.</p> <p>7 Q It won't be the last time I make a</p> <p>8 mathematical error.</p> <p>9 What different departments or divisions</p> <p>10 did you work at with the county police department,</p> <p>11 sir?</p> <p>12 A Started out in patrol. I worked</p> <p>13 undercover drug enforcement from '81 to '85. I was</p> <p>14 in the tactical operations unit as an operator for</p> <p>15 five years, from I believe '88 -- '87 to '92, was</p> <p>16 promoted, was a burglary sergeant, went back into</p> <p>17 tactical operations as a sergeant.</p> <p>18 I was also the chief helicopter pilot and</p> <p>19 flight instructor for the county. And my last 12</p> <p>20 years I was deputy commander and then commander of</p> <p>21 the Bureau of Drug Enforcement in the</p> <p>22 Multijurisdictional Drug Task Force. I think that's</p> <p>23 about it.</p> <p>24 Q How many years did you work patrol at the</p> <p>25 county?</p>	<p style="text-align: right;">15</p> <p>1 Mizzou. So from '74 to '79.</p> <p>2 Q Did you work at Howard County first?</p> <p>3 A I did, yeah.</p> <p>4 Q Did you work at Fayette?</p> <p>5 A Mm-hmm.</p> <p>6 Q Yeah?</p> <p>7 A Yeah.</p> <p>8 Q I've been there.</p> <p>9 A Central Methodist College.</p> <p>10 Q Is that where you went to school, sir?</p> <p>11 A Yes. For the first two years.</p> <p>12 Q Then finished at Mizzou?</p> <p>13 A No. No. I just got my EMT license at</p> <p>14 Mizzou in the evening.</p> <p>15 Q And then you -- after working at Howard</p> <p>16 County in their county ambulance district, you then</p> <p>17 worked for the EMS service out of Christian</p> <p>18 Hospital?</p> <p>19 A I did.</p> <p>20 Q And were you an EMT?</p> <p>21 A I was a paramedic.</p> <p>22 Q Paramedic. When did you obtain your</p> <p>23 certification as a paramedic?</p> <p>24 A Through Christian Hospital.</p> <p>25 Q In what year?</p>
<p style="text-align: right;">14</p> <p>1 A Total, four as a patrolman, two as a</p> <p>2 sergeant, and less than one as a lieutenant.</p> <p>3 Q And obviously for the people who are</p> <p>4 uneducated, it goes officer, then sergeant, then</p> <p>5 lieutenant, correct, as far as chain of command?</p> <p>6 A Yes.</p> <p>7 Q I understand, prior to working at the</p> <p>8 county as an officer and then later above an officer</p> <p>9 grade, you worked as an EMS or an EMT?</p> <p>10 A Yes. I was -- at the time I joined</p> <p>11 St. Louis County Police Department I was a paramedic</p> <p>12 supervisor at Christian Hospital.</p> <p>13 Q During the period of time you worked for</p> <p>14 the county in law enforcement, did you also work</p> <p>15 either full or part time as an EMS?</p> <p>16 A No, I did not.</p> <p>17 Q So you went directly from the EMS</p> <p>18 affiliated with Christian Hospital to the county in</p> <p>19 law enforcement?</p> <p>20 A Correct.</p> <p>21 Q And it looked like you worked as an EMS</p> <p>22 worker back in the 1970s?</p> <p>23 A Actually, I went to college in '74 and</p> <p>24 immediately started working for the county</p> <p>25 ambulance, and that's where I got my EMT license at</p>	<p style="text-align: right;">16</p> <p>1 A '76. At the time they had a program.</p> <p>2 Q And then what training did you receive to</p> <p>3 go into law enforcement with the county after your</p> <p>4 career working as an EMS -- or EMS worker?</p> <p>5 A I went to the Metro Police Academy,</p> <p>6 St. Louis Metro.</p> <p>7 Q And when did you graduate or obtain a</p> <p>8 certification from the academy?</p> <p>9 A September of 1979.</p> <p>10 Q And then went to work directly for the</p> <p>11 county?</p> <p>12 A Yes. I was already employed by the county</p> <p>13 when I was in the academy.</p> <p>14 Q Ever certified on the use of a Taser?</p> <p>15 A No.</p> <p>16 Q Ever apply for certification on the use of</p> <p>17 a Taser?</p> <p>18 A No.</p> <p>19 Q Who hired you at Ferguson?</p> <p>20 A John Shaw.</p> <p>21 Q Was Mr. Shaw the city manager the entire</p> <p>22 period of time you were at Ferguson?</p> <p>23 A He was.</p> <p>24 Q And how did you become affiliated or</p> <p>25 acquainted with Mr. Shaw or Ferguson that caused you</p>

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<p style="text-align: right;">17</p> <p>1 to make the leap from the county to work at the</p> <p>2 Ferguson Police Department?</p> <p>3 A Well, the position for chief of police</p> <p>4 came open, I was eligible for retirement, you know,</p> <p>5 I had a long history with Ferguson, and applied for</p> <p>6 the position and was hired.</p> <p>7 Q Who did you interview with?</p> <p>8 A Many -- many people. There was an</p> <p>9 interview process with outside city managers. I</p> <p>10 couldn't tell you where they were from. And I</p> <p>11 interviewed with City Council and I interviewed with</p> <p>12 the staff, the department heads of the City of</p> <p>13 Ferguson.</p> <p>14 Q Whose place did you take as chief at</p> <p>15 Ferguson?</p> <p>16 A Tom Moonier.</p> <p>17 Q And could you spell his last name?</p> <p>18 A M-o-o-n-i-e-r. Thomas, actually.</p> <p>19 Q And where did Mr. Moonier go after</p> <p>20 Ferguson? If you know.</p> <p>21 A To the gambling boat, best I could tell.</p> <p>22 Q Yeah.</p> <p>23 A Yeah, he -- he retired.</p> <p>24 Q Retired.</p> <p>25 A He was well into his 70s.</p>	<p style="text-align: right;">19</p> <p>1 A Initially it was just a conversation with</p> <p>2 the mayor, James Knowles, discussing the -- the</p> <p>3 prospect, yeah.</p> <p>4 Q Tell me about --</p> <p>5 A What was -- what was in the best interest</p> <p>6 of the city.</p> <p>7 Q Was it at Mr. Knowles' office?</p> <p>8 A No. We were just in the council chambers.</p> <p>9 Q About when was the meeting, sir?</p> <p>10 A Probably the first week of March, around</p> <p>11 then, of this year, 2015.</p> <p>12 Q Did you have to go to Mr. Shaw to inform</p> <p>13 him that you wished to resign, or was he already</p> <p>14 gone by that point?</p> <p>15 A No. He was still there. But I had the</p> <p>16 same conversation with him.</p> <p>17 Q Do you have an understanding why Mr. Shaw</p> <p>18 resigned?</p> <p>19 MR. PLUNKERT: Let me object. It calls</p> <p>20 for speculation.</p> <p>21 MR. JOHNSON: I'm asking if he knows.</p> <p>22 BY MR. JOHNSON:</p> <p>23 Q Go ahead.</p> <p>24 A I don't.</p> <p>25 Q Was there any threat made of you that you</p>
<p style="text-align: right;">18</p> <p>1 Q Okay. Who took your place as police chief</p> <p>2 of Ferguson?</p> <p>3 A Temporarily, Al Eickhoff.</p> <p>4 Q And filled full time eventually by who?</p> <p>5 A It's not filled full time. There is a</p> <p>6 interim chief there now.</p> <p>7 Q Somebody after Mr. Eickhoff?</p> <p>8 A Yes.</p> <p>9 Q Who is that? If you know.</p> <p>10 A Andre Anderson.</p> <p>11 Q And I understand Mr. Shaw resigned as well</p> <p>12 at Ferguson?</p> <p>13 A He did.</p> <p>14 Q Did he resign before you?</p> <p>15 A I don't remember.</p> <p>16 Q And do you know who took Mr. Shaw's place</p> <p>17 as city manager at Ferguson?</p> <p>18 A I don't know his name. I do know his</p> <p>19 name, and if it comes to me I will tell you.</p> <p>20 Q Fair enough. When you resigned, did</p> <p>21 somebody come to you and ask you to resign, or was</p> <p>22 it your idea?</p> <p>23 A No. It was my idea.</p> <p>24 Q And who did you go to to inform Ferguson</p> <p>25 that you wished to resign?</p>	<p style="text-align: right;">20</p> <p>1 needed to resign in lieu of termination?</p> <p>2 A No, not at all.</p> <p>3 Q Do you know if there was any threat made</p> <p>4 to Mr. Shaw that he needed to resign in lieu of</p> <p>5 termination?</p> <p>6 A No, I don't know that.</p> <p>7 Q Any other Ferguson Police Department</p> <p>8 employees at any level resigned other than you this</p> <p>9 year?</p> <p>10 A There were two that retired.</p> <p>11 Q Any Ferguson Police Department employees</p> <p>12 that were terminated this year that you know of?</p> <p>13 A Not that I'm aware of.</p> <p>14 Q And I understand the arrangement, at least</p> <p>15 me as a layperson, is the arrangement that you</p> <p>16 voluntarily resigned, and in exchange for that you</p> <p>17 would receive one year salary plus benefits through</p> <p>18 the City of Ferguson?</p> <p>19 A Correct.</p> <p>20 Q So that will expire in March of 2016?</p> <p>21 A Yes, it will.</p> <p>22 Q So technically you're still on the payroll</p> <p>23 of the city, as far as you know?</p> <p>24 A No.</p> <p>25 Q What is -- and I don't care about the</p>

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<p style="text-align: right;">21</p> <p>1 finances, I just care about the arrangement.</p> <p>2 A The arrangement was that the payment was</p> <p>3 final and that there was no other compensation due</p> <p>4 to me from the City of Ferguson.</p> <p>5 Q Was that an arrangement that you</p> <p>6 negotiated with the assistance of counsel?</p> <p>7 A No.</p> <p>8 Q Even -- even union or labor counsel?</p> <p>9 A No.</p> <p>10 Q Is there a written agreement -- separation</p> <p>11 agreement as between you and the city?</p> <p>12 A Yes.</p> <p>13 Q Did you resign after the Department of</p> <p>14 Justice came out with their report on police</p> <p>15 practices at the City of Ferguson?</p> <p>16 A Yes, I did.</p> <p>17 Q Datewise it was after that --</p> <p>18 A Yes.</p> <p>19 Q -- the issuance of that, correct?</p> <p>20 A Yes, it was.</p> <p>21 Q How long after that did you go to</p> <p>22 Mayor Knowles and tell him what you told me about</p> <p>23 resigning?</p> <p>24 A Within a couple weeks, if that.</p> <p>25 Q You received the report, correct?</p>	<p style="text-align: right;">23</p> <p>1 captain while I was the deputy commander there and</p> <p>2 made commander of the drug task force. And there</p> <p>3 were 15 or so municipalities that supplied officers</p> <p>4 to the drug task force and Ferguson was one of them.</p> <p>5 So I met regularly with police chiefs of</p> <p>6 the -- of those officers were the de facto board of</p> <p>7 directors for the drug task force, so I had monthly</p> <p>8 meetings with them.</p> <p>9 Q On site at Ferguson?</p> <p>10 A No. Usually at the police academy.</p> <p>11 Q And so it sounds like your law enforcement</p> <p>12 involvement with Ferguson prior to working there</p> <p>13 would have been on tactical drug operations?</p> <p>14 A Yes.</p> <p>15 Q In other words, there may be some Ferguson</p> <p>16 officers that are part of the drug unit or drug task</p> <p>17 force that you were also a part of?</p> <p>18 A Yes. Yes.</p> <p>19 Q And -- and insofar only as it relates to</p> <p>20 that task force, you would be directing in part some</p> <p>21 Ferguson officers that were on part of the task</p> <p>22 force?</p> <p>23 A Yes.</p> <p>24 Q And were you the actual supervisor of that</p> <p>25 drug task force that at times was comprised of</p>
<p style="text-align: right;">22</p> <p>1 A Yes.</p> <p>2 Q Did you read the report?</p> <p>3 A I did.</p> <p>4 Q In its entirety?</p> <p>5 A Yes.</p> <p>6 Q And did you receive and read the report</p> <p>7 from the Department of Justice on police practices</p> <p>8 at Ferguson before you made the decision to resign?</p> <p>9 A Yes.</p> <p>10 Q Did it play some role in your mind?</p> <p>11 A No. I -- no.</p> <p>12 Q You mentioned earlier, Mr. Jackson -- is</p> <p>13 it okay Mr. Jackson or Chief, I want to make sure --</p> <p>14 A You can call me Tom.</p> <p>15 Q Well, sometimes we -- we can't do that.</p> <p>16 A I know we're adversarial, but -- here, but</p> <p>17 yeah.</p> <p>18 Q I get it.</p> <p>19 A I get it.</p> <p>20 Q Tell me about the -- when you were with</p> <p>21 the county over the 30-plus years you were there,</p> <p>22 what type of law enforcement relationship you had</p> <p>23 with Ferguson.</p> <p>24 A During the final 12 years of my tenure at</p> <p>25 St. Louis County, as I said, I was promoted to</p>	<p style="text-align: right;">24</p> <p>1 Ferguson Police Department officers?</p> <p>2 A I was the commander. So the Ferguson</p> <p>3 police officer would have a sergeant and then a</p> <p>4 lieutenant.</p> <p>5 Q Right. And then as commander are you</p> <p>6 directly above the lieutenant?</p> <p>7 A Yes.</p> <p>8 Q Is there anybody that you reported to on</p> <p>9 the task force as commander?</p> <p>10 A Reported to?</p> <p>11 Q Well, if there's a -- if there's an</p> <p>12 operational question, is there somebody above you</p> <p>13 within the drug task force that you would report to?</p> <p>14 A No. I was the top person in the drug task</p> <p>15 force, but I had a -- I reported to the Chief of</p> <p>16 Detectives, St. Louis County.</p> <p>17 Q I understand. When you arrived at</p> <p>18 Ferguson as chief, it looks to me like there were</p> <p>19 some general orders that you either created or</p> <p>20 revised.</p> <p>21 A Yes.</p> <p>22 Q Tell me about when you first arrived at</p> <p>23 Ferguson and what you saw as the need to create a</p> <p>24 revised different general orders for the police</p> <p>25 department.</p>

6 (Pages 21 to 24)

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<p style="text-align: right;">25</p> <p>1 A Well, it was my intention when I went to,</p> <p>2 Ferguson to make it a -- an accredited agency, and</p> <p>3 that required having general orders and policies</p> <p>4 that complied with either the Missouri state</p> <p>5 accreditation or CALEA accreditation.</p> <p>6 Q And what does CALEA stand for, sir?</p> <p>7 A The Council for Accreditation of Law</p> <p>8 Enforcement Agencies.</p> <p>9 Q Okay.</p> <p>10 A It's an international accrediting agency.</p> <p>11 Q Prior to you arriving at Ferguson, was</p> <p>12 Ferguson an unaccredited police agency?</p> <p>13 A Yes.</p> <p>14 Q Did it receive accreditation during the</p> <p>15 period of time you were chief?</p> <p>16 A We were in our final year. It's about a</p> <p>17 three- or four-year process, and we were in our</p> <p>18 final year last year.</p> <p>19 Q As of 2014 it sounds like you were in the</p> <p>20 process of getting accredited?</p> <p>21 A Correct.</p> <p>22 Q And do you know if they actually received</p> <p>23 an accreditation since you separated employment with</p> <p>24 the agency?</p> <p>25 A I don't believe that the -- that it's been</p>	<p style="text-align: right;">27</p> <p>1 BY MR. JOHNSON:</p> <p>2 Q Go ahead, sir.</p> <p>3 A Yes.</p> <p>4 Q I just want to understand what you were</p> <p>5 doing.</p> <p>6 A Sure.</p> <p>7 Q Were you the person who drafted the</p> <p>8 revised or new general orders for Ferguson?</p> <p>9 A Initially, yes.</p> <p>10 Q And what do you mean by "initially"?</p> <p>11 A I started the process. I met with several</p> <p>12 other chiefs and the director of the Missouri State</p> <p>13 Police Chief Association, determined that we would</p> <p>14 start out with the Missouri accreditation because it</p> <p>15 basically mirrored the CALEA accreditation, and got</p> <p>16 lots of help, met with several chiefs from</p> <p>17 accredited agencies and reviewed their policies, got</p> <p>18 copies of their policies, and I started, you know,</p> <p>19 revising the general order manual myself.</p> <p>20 It became time consuming and I was able</p> <p>21 to -- to get my boss to allow me to assign a</p> <p>22 full-time person to -- to work on accreditation.</p> <p>23 It's generally what most agencies do.</p> <p>24 Q Right. Let's start with the sources of</p> <p>25 information that you look to, Mr. Jackson. When you</p>
<p style="text-align: right;">26</p> <p>1 finalized yet.</p> <p>2 Q Do you know if they're still in the</p> <p>3 process?</p> <p>4 A Yes, they are.</p> <p>5 Q Did Ferguson's police department have</p> <p>6 general orders prior to you acting as police chief?</p> <p>7 A Yes.</p> <p>8 Q They were just in a different form?</p> <p>9 A They were.</p> <p>10 Q Did you determine them to be deficient in</p> <p>11 any way?</p> <p>12 A Some of them I felt were not up to date</p> <p>13 and -- but I revised the entire manual regardless.</p> <p>14 Q So regardless of if you thought -- you</p> <p>15 know, I'm just going to make something up.</p> <p>16 A Sure.</p> <p>17 Q If there's a bomb scare, for example, if</p> <p>18 you thought that was deficient, you just didn't</p> <p>19 attack that general order itself, you went through</p> <p>20 agency and tried to revamp the whole set of general</p> <p>21 orders?</p> <p>22 MR. PLUNKERT: Object to the form. You</p> <p>23 may answer. I objected to the form. You may</p> <p>24 answer.</p> <p>25</p>	<p style="text-align: right;">28</p> <p>1 first set forth to revise the general orders, what</p> <p>2 outside law enforcement sources of information did</p> <p>3 you go to?</p> <p>4 A The chiefs of police, St. Louis --</p> <p>5 Q Of where?</p> <p>6 A -- St. Louis County, Maryland Heights,</p> <p>7 Bellefontaine Neighbors, Olivette. The director of</p> <p>8 the Missouri Chiefs Association, which is who</p> <p>9 ultimately coordinates the -- the accreditation.</p> <p>10 Q And I take it the representatives with the</p> <p>11 county, Maryland Heights, Olivette, Bellefontaine,</p> <p>12 are peers or people that you know and trust?</p> <p>13 A Yes.</p> <p>14 Q And did you go to the police chiefs</p> <p>15 themselves of those agencies --</p> <p>16 A Yes.</p> <p>17 Q -- for assistance?</p> <p>18 A I'm sorry.</p> <p>19 Q That's okay.</p> <p>20 A I didn't mean to interrupt you. I</p> <p>21 apologize.</p> <p>22 Q No problem.</p> <p>23 Were they the police chiefs you went to?</p> <p>24 A Yes, they were.</p> <p>25 Q And it looks like some of the orders began</p>

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<p style="text-align: right;">29</p> <p>1 to be revised almost the same year you got to</p> <p>2 Ferguson, true? 2010?</p> <p>3 A True.</p> <p>4 Q So your meetings with these different</p> <p>5 outside law enforcement agencies, were they done in</p> <p>6 2010, when you started working at Ferguson?</p> <p>7 A Yes.</p> <p>8 Q Was it an ongoing process where you were</p> <p>9 continuing to meet with outside agencies to further</p> <p>10 get information about their orders?</p> <p>11 A Yes.</p> <p>12 Q Are there agencies that you know that you</p> <p>13 copied either identically or closely in drafting the</p> <p>14 new general orders at Ferguson?</p> <p>15 A St. Louis County's, Maryland Heights,</p> <p>16 Olivette's.</p> <p>17 Q The reason I ask that is, I do see an</p> <p>18 annotation or a reference in some of the general</p> <p>19 orders to the Missouri Police Chiefs Uniform Orders.</p> <p>20 Did you use that as a source of</p> <p>21 information as well, sir?</p> <p>22 A That's -- that's an assistant or -- that</p> <p>23 assistant accreditation process, because there are</p> <p>24 hundreds of standards, thousands of standards, so</p> <p>25 when you have a general order you reference the</p>	<p style="text-align: right;">31</p> <p>1 enforcement.</p> <p>2 Q Other than the outside law enforcement</p> <p>3 agencies you told me about, IACP and the Missouri</p> <p>4 Police Chiefs Charitable Foundation, any other</p> <p>5 outside resources that you, or Mr. McBride, to your</p> <p>6 knowledge, utilized in formulating the general</p> <p>7 orders that bear your signature?</p> <p>8 A Nothing specific, but use law, case law,</p> <p>9 constitutional law, things like that, make sure</p> <p>10 things were in compliance with our agency, our city,</p> <p>11 our state.</p> <p>12 Q Did your law enforcement agency actually</p> <p>13 do the legal research yourself in order to determine</p> <p>14 whether or not the general orders were compliant</p> <p>15 with existing constitutional law?</p> <p>16 A Initially I was doing that, but then that</p> <p>17 was delegated.</p> <p>18 Q To Mr. McBride?</p> <p>19 A Yes.</p> <p>20 Q And when you did it, what sources did you</p> <p>21 go to to do the legal research necessary to</p> <p>22 determine whether or not the general orders that</p> <p>23 bear your signature were in conformance with</p> <p>24 existing constitutional law?</p> <p>25 A I can't say any specific attorneys. We</p>
<p style="text-align: right;">30</p> <p>1 standard or standards that it may apply to, so that</p> <p>2 when you're going through your proofs they're</p> <p>3 looking for a policy that meets this standard and</p> <p>4 you can say here it is.</p> <p>5 Q Right. And so when we see a reference</p> <p>6 to -- and I think it's MPC -- MPCCF, Missouri Police</p> <p>7 Chiefs?</p> <p>8 A Yes. Charitable Foundation is actually</p> <p>9 the accrediting agency.</p> <p>10 Q Did you go to the IACP for a source of</p> <p>11 information in revising general orders?</p> <p>12 A Actually, once I assigned a full-time</p> <p>13 person, we got him a log-on to access the resources</p> <p>14 the IACP has, so yes, they were used. Not by me.</p> <p>15 Q Right. But by the person you delegated</p> <p>16 the responsibility to?</p> <p>17 A Yes.</p> <p>18 Q And who was that person?</p> <p>19 A Dennis McBride.</p> <p>20 Q And is Mr. McBride still with Ferguson?</p> <p>21 A I think so.</p> <p>22 Q What is his job title, at least when you</p> <p>23 left.</p> <p>24 A He was captain, but he was assigned -- in</p> <p>25 addition to this, he was also overseeing code</p>	<p style="text-align: right;">32</p> <p>1 had our city attorney, Stephanie Karr. I relied on</p> <p>2 her a lot for a variety of things.</p> <p>3 Q Sure. Was it all in house, then? In</p> <p>4 other words, did you use outside counsel?</p> <p>5 A Outside counsel, no.</p> <p>6 Q Okay.</p> <p>7 A Outside sources, yes.</p> <p>8 Q Do you know what outside sources</p> <p>9 Mr. McBride went to to do the legal research</p> <p>10 necessary to evaluate whether the general orders</p> <p>11 that bear your signature were in conformance with</p> <p>12 existing constitutional law at the time?</p> <p>13 A As I said, generally it's the IACP's -- I</p> <p>14 can't remember the name of the site, but it's a</p> <p>15 research site specifically set up for this type of</p> <p>16 thing.</p> <p>17 Q Did you have to go to Mr. Shaw at all in</p> <p>18 terms of determining whether or not you needed to</p> <p>19 revise the general orders?</p> <p>20 A We -- when we discussed this, I let him</p> <p>21 know, and I think this was part of my interview</p> <p>22 process, but that this was my intention to do an</p> <p>23 accreditation, and therefore I was going to require</p> <p>24 funds, so I had to go to him so we could go to the</p> <p>25 council and get the funding authorized to do this.</p>

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<p style="text-align: right;">33</p> <p>1 Q The actual workmanship, though, in 2 drafting, revising, and then issuing the general 3 orders that bear your signature, sir, did you have 4 to go to Mr. Shaw for approval to do that? 5 A No. 6 Q Were there any general orders that you 7 presented to Mr. Shaw at all for his review and 8 approval? 9 A I'm sure there were, yeah. I can't say 10 any specific ones. 11 Q Okay. And for what reason would you 12 present those to Mr. Shaw for his review and 13 approval? 14 A He was my boss and he liked -- 15 Q He was your direct report? 16 A He liked to be kept informed, so ... 17 Q Is he heavy-handed? 18 A No. 19 Q Did he let you -- did he give you 20 discretion to do your job? 21 A Quite a bit. 22 Q Were there any general orders that you 23 presented to Mr. Shaw that were rejected by him? 24 A Not that I can remember. 25 Do you mind if I grab a little more</p>	<p style="text-align: right;">35</p> <p>1 Q And as the -- let's do this. I'm going to 2 mark as Exhibit 1 one of these orders, and depending 3 on how the answers go, it may short-circuit a lot of 4 things -- 5 A Okay. 6 Q -- but I want to make sure I understand 7 some of the principles of these orders. 8 (Deposition Exhibit Number 1 9 marked for identification.) 10 BY MR. JOHNSON: 11 Q Mr. Jackson, I'm going to first hand you 12 what I marked as Exhibit 1 and ask if you could 13 please identify that for me. 14 A Yes. Essentially our mission statement. 15 Q And for the record, this is General Order 16 103.00, correct? 17 A That's correct. 18 Q And Exhibit 1 is a four- -- five-page 19 document. Is this one of the general orders that 20 you drafted when you became Chief of Police at 21 Ferguson? 22 A Yes, it is. 23 Q And just so I understand the layout and 24 the lay of the land in terms of these orders that we 25 may go through today, this bears your signature on</p>
<p style="text-align: right;">34</p> <p>1 coffee? 2 Q Go ahead. No problem. 3 THE VIDEOGRAPHER: Do you want to go off 4 the record? 5 (Discussion off the record.) 6 THE WITNESS: Thank you, sir. 7 MR. JOHNSON: You bet. Are we back on? 8 THE VIDEOGRAPHER: Yes, sir. 9 BY MR. JOHNSON: 10 Q Did you have to go to the City Council to 11 have anybody with the City Council review and 12 approve the general orders that you formulated? 13 A No. 14 Q Did you go to Mayor Knowles or any mayor 15 at the time you were drafting and formulating the 16 new general orders for their -- for the mayor's 17 review and approval? 18 A No. 19 Q And I understood at no point between 2010 20 and 2015 did you directly report to the mayor of 21 Ferguson, correct? 22 A That's correct. 23 Q Your only report was to Mr. Shaw or 24 whoever was the city manager? 25 A Yes.</p>	<p style="text-align: right;">36</p> <p>1 the third page, correct? 2 A Correct. 3 Q And at the time you were listed as Colonel 4 Thomas Jackson, Chief of Police, true? 5 A True. 6 Q And is that the job title that you held 7 during the period of time you were at Ferguson? 8 A That's correct. 9 Q And in terms of chain of command, colonel 10 would fit where in terms of the other job titles and 11 designations we talked about with law enforcement? 12 A It's an honorary title that is the head of 13 the law enforcement agency, chief of police. 14 Q And then when we see underneath your 15 signature on the third page of Exhibit 1 an 16 attachment, obviously that refers to the Code of 17 Ethics that is -- goes with that general order, 18 true? 19 A True. 20 Q And then the distribution, meaning it 21 would go to all the department -- Ferguson Police 22 Department personnel? 23 A Correct. 24 Q And then the reference, if there is a 25 reference, that would reference back to the Uniform</p>

<p style="text-align: right;">37</p> <p>1 Missouri Police Chiefs Charitable Foundation 1.3 in 2 this case, true? 3 A True. 4 Q And the date of the general order in 5 Exhibit 1 on the first page is April 26, 2011? 6 A Yes. 7 Q Walk me through when a general order, any 8 general order that you formulated at Ferguson, what 9 the process is for you to -- after you've created it 10 to then have that issued with a date affixed to it. 11 What did you have to do, sir? 12 A So, for example, in this case I -- 13 anything that had the MPC reference was after 14 Captain McBride took over, so he would have 15 presented this general order to me and I would have 16 reviewed it, revised it if I felt it was necessary, 17 and then returned it for distribution as a draft to 18 the command staff, and then we would meet on these 19 orders. 20 And then if we agreed that it -- I also 21 made sure that it was in compliance with the city 22 personnel manual and ordinances, and then if that 23 was all in order, then that's when I would sign off 24 on it. 25 Q After you signed off on a general order,</p>	<p style="text-align: right;">39</p> <p>1 A Yes. 2 Q I saw in a different general order that 3 you're also referred to as the chief executive 4 officer for the Ferguson Police Department as 5 determined by the City of Ferguson ordinances, 6 correct? 7 A That's correct. 8 Q And to quote somebody from my side of the 9 state, the buck stops with you -- 10 A Yes. 11 MR. PLUNKERT: Objection. 12 BY MR. JOHNSON: 13 Q -- in terms of the police department? 14 MR. PLUNKERT: Objection to the form. You 15 can answer. 16 A Yes. 17 BY MR. JOHNSON: 18 Q And as chief executive officer, you have 19 total authority and responsible for the management, 20 direction, and control of operations in the 21 administration of your agency? 22 A Yes. 23 Q And you have general supervision and 24 control of the police department, including the 25 enforcement of discipline, among the members thereof</p>
<p style="text-align: right;">38</p> <p>1 would it then become part of a book or volume of 2 general orders applicable to the operations of your 3 police department? 4 A Yes. 5 Q So, in effect, once you reviewed in this 6 case what Mr. McBride gave you, met with your 7 command staff, reviewed it in conformance with 8 Ferguson's personnel ordinances, then it -- in your 9 terms, it became effective for your department? 10 A Yes. 11 Q Because as I understand, in a separate 12 general order, as Chief of Police you're responsible 13 for establishing policy within the department? 14 A Yes. 15 Q You're responsible -- 16 A Yes. 17 Q -- for overall operation of the police 18 department? 19 A Yes. 20 Q And you have authority over all the 21 bureaus units and personnel in the police 22 department? 23 A Yes. 24 Q And all general orders are issued under 25 your authority as chief of police?</p>	<p style="text-align: right;">40</p> <p>1 and the instruction of the members in their duties, 2 correct? 3 A That's correct. 4 Q The mission statement, as you refer to 5 Exhibit 1, was that a mission statement that was in 6 effect with the Ferguson Police Department at all 7 times during the period of time you were chief, 8 General Order 103.00? 9 A From the time of its inception, yes. 10 Q So from the time of its inception 11 April 26, 2011, until your resignation March of 12 2015, Exhibit 1 was a general order of the Ferguson 13 Police Department? 14 A Yes. 15 Q And there are different values that you've 16 set forth in Exhibit 1, correct? 17 A That's correct. 18 Q One of the values is teamwork, correct? 19 A Yes. 20 Q One of the values is professionalism? 21 A Correct. 22 Q And one of the values is you want to be a 23 humane organization, correct? 24 A Yes. 25 Q Which values the constitutional, civil,</p>

<p style="text-align: right;">41</p> <p>1 and human rights of all citizens?</p> <p>2 A That's correct.</p> <p>3 Q Police officers and nonpolice officers?</p> <p>4 A Yes.</p> <p>5 Q Is there a mission statement with the</p> <p>6 Ferguson Police Department during the period of time</p> <p>7 you were there that -- that you considered to be</p> <p>8 separate and apart from the mission statements we</p> <p>9 see in Exhibit 1? Is there a credo that you used?</p> <p>10 MR. PLUNKERT: Objection -- object to the</p> <p>11 form.</p> <p>12 A Not that I'm familiar with. I'm not sure</p> <p>13 I understand what you're asking me.</p> <p>14 BY MR. JOHNSON:</p> <p>15 Q Well -- and I appreciate that.</p> <p>16 What I'm asking is, sometimes leaders of</p> <p>17 organizations such as yourself have their own credo</p> <p>18 or mission statement. Sometimes it could be on a</p> <p>19 letterhead, sometimes it could be on the side of a</p> <p>20 car door.</p> <p>21 Was there a separate mission statement</p> <p>22 that you used as police chief at Ferguson during the</p> <p>23 period of time you were there?</p> <p>24 A Nothing official, no.</p> <p>25 Q What does it say on the side of the door</p>	<p style="text-align: right;">43</p> <p>1 BY MR. JOHNSON:</p> <p>2 Q I'll lay some foundation. Here's</p> <p>3 Exhibit 2. What is Exhibit 2, sir?</p> <p>4 A Exhibit 2 is the general order titled</p> <p>5 "Training, General Order 222.00," dated August 23rd,</p> <p>6 2011.</p> <p>7 Q Is this a general order that you created</p> <p>8 or drafted during your period of time as chief of</p> <p>9 Ferguson?</p> <p>10 A I'm sure it is. Let me just verify. Yes.</p> <p>11 Q The training that -- first of all, it is a</p> <p>12 policy of the department to provide training to</p> <p>13 police officers that work there, correct?</p> <p>14 A Correct.</p> <p>15 Q And that training can come from any number</p> <p>16 of sources. Some are enumerated in Exhibit 2,</p> <p>17 aren't they?</p> <p>18 A Yes, they are.</p> <p>19 Q An officer at Ferguson can receive</p> <p>20 training through approved provider training,</p> <p>21 correct?</p> <p>22 A Correct.</p> <p>23 Q In-service training?</p> <p>24 A Yes.</p> <p>25 Q Initial training, meaning before Ferguson?</p>
<p style="text-align: right;">42</p> <p>1 of the Ferguson police cruiser during the period of</p> <p>2 time you were there?</p> <p>3 A Ferguson Police Department.</p> <p>4 Q It didn't have any type of credo or</p> <p>5 saying?</p> <p>6 A I don't -- I don't remember.</p> <p>7 Q We hear "To serve and to protect"?</p> <p>8 A Sure.</p> <p>9 Q We know a lot of different catch phrases</p> <p>10 that law enforcement uses. Anything like that at</p> <p>11 Ferguson?</p> <p>12 A Not that I can recall.</p> <p>13 Q When it comes to the training of the</p> <p>14 personnel that worked for you when you were at</p> <p>15 Ferguson, were you the person who had ultimate</p> <p>16 responsibility in the area of training?</p> <p>17 MR. PLUNKERT: Object to the form,</p> <p>18 foundation. You may answer.</p> <p>19 A Okay. Again, that would be a delegated</p> <p>20 responsibility, but as -- as we pointed out,</p> <p>21 ultimately everything comes to me, but sure.</p> <p>22</p> <p>23 (Deposition Exhibit Number 2</p> <p>24 marked for identification.)</p> <p>25</p>	<p style="text-align: right;">44</p> <p>1 A Yes.</p> <p>2 Q And then continuing education as they're</p> <p>3 working there, correct?</p> <p>4 A That's correct.</p> <p>5 Q The in-service training, does that mean in</p> <p>6 house?</p> <p>7 A It can. It can also be with another</p> <p>8 outside agency as well, but generally that refers to</p> <p>9 in-house training.</p> <p>10 Q Between 2010 and 2015, when you were at</p> <p>11 Ferguson, did they have in-house training that they</p> <p>12 provided their officers on any aspect of law</p> <p>13 enforcement?</p> <p>14 A Yes.</p> <p>15 Q Describe for me, you know, in terms of who</p> <p>16 did the training and generally what type of topics</p> <p>17 you were familiar with that were the in-house</p> <p>18 training.</p> <p>19 A Some of the in-house training we did was</p> <p>20 on, for example, racial profiling is required by the</p> <p>21 state, and I had two certified instructors in that.</p> <p>22 Firearms training would be in house,</p> <p>23 use-of-force training would be in house. What we're</p> <p>24 talking about here, Taser training, would be in</p> <p>25 house.</p>

<p style="text-align: right;">45</p> <p>1 Q Okay.</p> <p>2 A We also would have brief role call</p> <p>3 trainings, like maybe review of a general order, a</p> <p>4 new general order, review of a new constitutional</p> <p>5 decision. Those types of things.</p> <p>6 Q When you first got to Ferguson in 2010,</p> <p>7 did they have in-house training?</p> <p>8 A They had -- yes, they had in-house</p> <p>9 training.</p> <p>10 Q Did they have in-house training that</p> <p>11 utilized use-of-force topics?</p> <p>12 A Yes.</p> <p>13 Q Did they have in-house training that</p> <p>14 utilized Taser training?</p> <p>15 A No.</p> <p>16 Q Who made the decision to use Taser</p> <p>17 in-house training at Ferguson after you came on as</p> <p>18 chief?</p> <p>19 A That would have been me.</p> <p>20 Q And why did you do that?</p> <p>21 A There was a lot of discussion about Taser.</p> <p>22 St. Louis County had it and most of the surrounding</p> <p>23 agencies in Ferguson -- to Ferguson had it. And</p> <p>24 with lots of discussions amongst my officers and</p> <p>25 command staff, it was determined that it was a safer</p>	<p style="text-align: right;">47</p> <p>1 A No.</p> <p>2 Q Because you had never been Taser</p> <p>3 certified, correct?</p> <p>4 A No.</p> <p>5 Q Have you ever sat in on Taser training in</p> <p>6 St. Louis County?</p> <p>7 A No.</p> <p>8 Q Ever sit in on any of the training that</p> <p>9 was in house at Ferguson in Taser training?</p> <p>10 A Yes.</p> <p>11 Q And was that always conducted by</p> <p>12 Mr. Brannon?</p> <p>13 A Yes.</p> <p>14 Q Any other in-house instructors on the use</p> <p>15 of a Taser at Ferguson during the period of time you</p> <p>16 were there other than Mr. Brannon?</p> <p>17 A No.</p> <p>18 Q What in-house training did Mr. Brannon</p> <p>19 perform, if you know, when it came to in-house Taser</p> <p>20 training at Ferguson? What did he do?</p> <p>21 A He certified all the officers in the use</p> <p>22 of the Taser.</p> <p>23 Q Every officer?</p> <p>24 A I can't say that with certainty. I was</p> <p>25 not one of them.</p>
<p style="text-align: right;">46</p> <p>1 way to get compliance of hostile individuals, in</p> <p>2 particular, rather than hand fighting. And so I</p> <p>3 had -- I had one officer who was an instructor, and</p> <p>4 he essentially put the package together to -- to get</p> <p>5 the training going.</p> <p>6 Q Who was that?</p> <p>7 A John Brannon.</p> <p>8 Q Mr. Brannon, was he Taser certified when</p> <p>9 he came on board?</p> <p>10 A Yes, he was.</p> <p>11 Q And do you know where Mr. Brannon worked</p> <p>12 at, if he did, before Ferguson?</p> <p>13 A No, I don't.</p> <p>14 Q And what sources -- similar to the sources</p> <p>15 you looked to in drafting the general orders, sir,</p> <p>16 did you look to sources of information prior to</p> <p>17 determining to undertake in-house Taser training at</p> <p>18 Ferguson?</p> <p>19 A Yes. And I was actually part of the</p> <p>20 process as command staff at St. Louis County when we</p> <p>21 were viewing -- reviewing whether or not to</p> <p>22 implement a Taser program there, so I was familiar</p> <p>23 with a lot of the research and background.</p> <p>24 Q Were you part of undertaking an in-house</p> <p>25 Taser training program at St. Louis County?</p>	<p style="text-align: right;">48</p> <p>1 Q How was it selected that an officer would</p> <p>2 receive Taser training at Ferguson?</p> <p>3 A Well, the intent was for all the officers</p> <p>4 to receive the Taser training. I just can't say</p> <p>5 with certainty that everybody actually did, if</p> <p>6 someone was injured or --</p> <p>7 Q Sure.</p> <p>8 A -- you know, somewhere.</p> <p>9 Q Right. Did Ferguson have Taser devices</p> <p>10 when you came there?</p> <p>11 A No.</p> <p>12 Q Tell me about the decision to purchase</p> <p>13 Taser devices. First of all, was that your</p> <p>14 decision?</p> <p>15 A Yes.</p> <p>16 Q And you -- you told me earlier that there</p> <p>17 was some discussion about the use of a Taser as a</p> <p>18 device to obtain cooperation, correct?</p> <p>19 A That's correct.</p> <p>20 Q And when the decision was made to purchase</p> <p>21 Tasers, were you the one to make the decision?</p> <p>22 A Yes.</p> <p>23 Q And where did you go to purchase Tasers?</p> <p>24 A Taser International.</p> <p>25 Q Did you speak with anybody from Taser</p>

<p style="text-align: right;">49</p> <p>1 International prior to determining to purchase Taser 2 ECWs? 3 A No. I had that delegated. 4 Q To who? 5 A John Brannon. 6 Q Did Mr. Brannon speak with any 7 representatives of Taser International before you 8 made the decision to purchase Taser ECWs? 9 MR. PLUNKERT: It calls for speculation. 10 You can answer. 11 A Yes. He told me that he did many times. 12 BY MR. JOHNSON: 13 Q What did he tell you that the substance of 14 his conversations were with Taser? 15 A Well, it surrounded training and purchase 16 of the Tasers. 17 Q Did Taser train Mr. Brannon? 18 A I'm not sure. I -- I can't -- I can't 19 recall that. 20 Q Did Taser ever send any representatives to 21 Ferguson for the purpose of training? 22 A I don't remember. 23 Q Did Taser send any representatives to 24 Ferguson prior to your decision to purchase Taser 25 ECWs?</p>	<p style="text-align: right;">51</p> <p>1 A Yes. He scheduled the training. 2 Q During the period of time you were at 3 Ferguson, did anybody take outside training on the 4 use of the Taser device, to your knowledge? 5 A To my knowledge, there were officers who 6 were previously certified, but I couldn't tell you 7 their names. I do recall that that was the case. 8 Q Do you know Brian Kaminski? 9 A I do. 10 Q And how do you know Mr. Kaminski? 11 A He was one of my officers at Ferguson 12 Police Department. 13 Q Is your relationship with him just a 14 professional one limited to the workplace? 15 A Yes. 16 Q Did you know Mr. Kaminski to have ever 17 received Taser training? 18 A Yes. 19 Q How? 20 A Through John Brannon. 21 Q Any other training other than through 22 Mr. Brannon that Mr. Kaminski received? 23 A Not that I'm aware. 24 Q Do you know if Mr. Kaminski was 25 recertified on the use of the Taser?</p>
<p style="text-align: right;">50</p> <p>1 A I don't remember. 2 Q Do you know what ECW means? 3 A Electronic -- 4 Q Okay. 5 A -- weapon. 6 Q I want to make sure we're on the same 7 page. 8 A Yes. 9 Q I'll probably use that a couple times 10 today. 11 A That's fine. Yes, it means electronic 12 control compliance weapon. 13 Q Does Taser provide use-of-force training 14 for the use of the Taser device? 15 A Yes. They provide the certification. 16 Q But do they provide use-of-force training 17 as part of the training on certifying you on the use 18 of the device? 19 A I don't remember that. 20 Q Approximately when did Ferguson first 21 obtain Taser ECWs? 22 A Like 2010 or maybe early 2011. 23 Q Once they obtained the Taser devices, how 24 did training then follow? Was Mr. Brannon in charge 25 of this?</p>	<p style="text-align: right;">52</p> <p>1 A No, I don't. 2 Q Do you know if Mr. Kaminski received Taser 3 training from any outside sources other than the 4 Ferguson Police Department? 5 A No, I don't. 6 Q What materials did Mr. Brannon use to 7 train on the use of the Taser? 8 A He used written presentations as well as 9 actual demonstrations in the use of the Taser. Most 10 of the officers were tased. 11 Q Where did Mr. Brannon get the materials to 12 train on the use of Taser? 13 A I don't know. 14 Q Do you know if the materials, if they were 15 used, if there was written materials that were 16 utilized, do you know if they were kept by 17 Mr. Brannon or by somebody else with the department? 18 A I don't know if he had somebody else keep 19 them. 20 Q What was Mr. Brannon's job title within 21 the department during the period of time he was a 22 Taser trainer? 23 A He was a police officer and he was also a 24 firearms instructor. 25 Q Was he officer or sergeant, lieutenant?</p>

<p style="text-align: right;">53</p> <p>1 A Officer.</p> <p>2 Q Officer. Was he a patrol officer?</p> <p>3 A Yes, he was. When I first arrived there,</p> <p>4 he was a community relations officer.</p> <p>5 Q Back to Exhibit 2, the training general</p> <p>6 order. On page 2 of Exhibit 2, there's a subheading</p> <p>7 called "Required Training." Do you see that,</p> <p>8 Mr. Jackson?</p> <p>9 A I do.</p> <p>10 Q And bullet point number 3 reads, "The</p> <p>11 Ferguson Police Department acknowledges that</p> <p>12 graduates of approved provider initial recruit</p> <p>13 training do not receive training specific to the</p> <p>14 policies and procedure of the Ferguson Police</p> <p>15 Department."</p> <p>16 Did I read that correctly?</p> <p>17 A You did.</p> <p>18 Q When -- when I see that phrase, are you</p> <p>19 referring to academies as initial recruit training,</p> <p>20 or is that something different?</p> <p>21 A Yes, police academies.</p> <p>22 Q So Ferguson acknowledges that any training</p> <p>23 that a police officer at Ferguson receives through</p> <p>24 an academy isn't specific to the trainings that</p> <p>25 Ferguson gives the officer?</p>	<p style="text-align: right;">55</p> <p>1 graduate of the Eastern Missouri Police Academy --</p> <p>2 A Yes.</p> <p>3 Q -- and -- did you determine that to be</p> <p>4 sufficient training to be a Ferguson Police</p> <p>5 Department officer, without any other training</p> <p>6 whatsoever?</p> <p>7 A Again, we're talking about one factor that</p> <p>8 would go into someone's qualifications for</p> <p>9 employment, so we look at a lot of things. But as</p> <p>10 far as initial training as being the basic</p> <p>11 requirement for the job, yes.</p> <p>12 Q But that on top of that this policy states</p> <p>13 that they would receive additional training specific</p> <p>14 to the job?</p> <p>15 A Yes.</p> <p>16 Q So that's necessary, correct?</p> <p>17 MR. PLUNKERT: Object to the form.</p> <p>18 A Yes.</p> <p>19 BY MR. JOHNSON:</p> <p>20 Q And that training they received is from an</p> <p>21 FTO, correct, field training officer?</p> <p>22 A Yes. Yes.</p> <p>23 Q Who was the field training officer when</p> <p>24 you started working in 2010?</p> <p>25 A We had Dominica Fuller, John Beard. I</p>
<p style="text-align: right;">54</p> <p>1 MR. PLUNKERT: Object to the form.</p> <p>2 BY MR. JOHNSON:</p> <p>3 Q I mean, is that paraphrased correctly, or</p> <p>4 does that mean something different?</p> <p>5 A No.</p> <p>6 MR. PLUNKERT: Same. Go ahead.</p> <p>7 A The training that the officer will receive</p> <p>8 in field training is in addition to, it's</p> <p>9 supplemental to, initial training.</p> <p>10 BY MR. JOHNSON:</p> <p>11 Q In other words, there's initial training</p> <p>12 sometimes through an academy, but then the police</p> <p>13 department will give additional training specific to</p> <p>14 the operations of that department?</p> <p>15 A Yes.</p> <p>16 Q Did Ferguson rely solely on a police</p> <p>17 officer's academy training as sufficient?</p> <p>18 MR. PLUNKERT: Object to the form.</p> <p>19 BY MR. JOHNSON:</p> <p>20 Q You can answer.</p> <p>21 MR. PLUNKERT: You may answer.</p> <p>22 A As sufficient for --</p> <p>23 BY MR. JOHNSON:</p> <p>24 Q Let me give you a hypothetical.</p> <p>25 If a police officer came in and was a</p>	<p style="text-align: right;">56</p> <p>1 think there were about four that were qualified at</p> <p>2 the time, but I'm -- I would be guessing if I gave</p> <p>3 you the other names.</p> <p>4 Q Is there a representative with the</p> <p>5 Ferguson Police Department who maintains or keeps</p> <p>6 the training records of each officer?</p> <p>7 A Yes.</p> <p>8 Q And who was that when you started?</p> <p>9 A Captain Henke.</p> <p>10 Q H-e-n-k-e?</p> <p>11 A Yes.</p> <p>12 Q And what was his job title?</p> <p>13 A He was the commander of field operations.</p> <p>14 Q And did he report directly to you?</p> <p>15 A Yes.</p> <p>16 Q And what types -- if you know, what types</p> <p>17 of training materials did Mr. Henke keep on an</p> <p>18 officer?</p> <p>19 A Generally the records, the sign-in sheets,</p> <p>20 and then the copies of the certificates that</p> <p>21 officers would receive.</p> <p>22 Q For example, if they went to an approved</p> <p>23 provider program outside of Ferguson and they got a</p> <p>24 certificate of completion, Mr. Henke would keep one</p> <p>25 of those, correct?</p>

<p style="text-align: right;">57</p> <p>1 A Yes.</p> <p>2 Q If there was in-house training that</p> <p>3 Ferguson rendered to an officer, would there be some</p> <p>4 documentation that Mr. Henke would keep?</p> <p>5 A It would be a sign-in sheet, just an</p> <p>6 acknowledgment that the training was given.</p> <p>7 Q And specific to Taser training that</p> <p>8 Mr. Brannon did, how would that be memorialized that</p> <p>9 Mr. Brannon gave in-house Taser training to a</p> <p>10 Ferguson Police Department officer?</p> <p>11 A We actually went to an electronic form of</p> <p>12 maintaining training records, and Officer Greg</p> <p>13 McDanel was then the custodian of that because it</p> <p>14 was on his evidence program. And then John Brannon</p> <p>15 would keep a record of that, too.</p> <p>16 Q Prior to -- I've seen some of the</p> <p>17 electronic records, and we'll go through those</p> <p>18 later. When was that switch made?</p> <p>19 A I don't remember.</p> <p>20 Q The reason I ask that is, some of those</p> <p>21 obviously don't have some of the earlier dates to</p> <p>22 the extent the training existed.</p> <p>23 Was it kept by the sign-in sheet before it</p> <p>24 went to an electronic basis?</p> <p>25 A There would still be a sign-in sheet.</p>	<p style="text-align: right;">59</p> <p>1 A The police department adopted CIT training</p> <p>2 and actually had -- one of their sergeants was a</p> <p>3 trainer and brought the program into the police</p> <p>4 academy.</p> <p>5 Q What year did you first encounter CIT at</p> <p>6 the county?</p> <p>7 A I don't know.</p> <p>8 Q Are you CIT certified or trained?</p> <p>9 A I am not.</p> <p>10 Q Have you ever applied?</p> <p>11 A No.</p> <p>12 Q What officers within the county were</p> <p>13 CIT-trained? Patrol officers, detectives? I mean,</p> <p>14 was there a specific --</p> <p>15 A Generally patrol officers, because they</p> <p>16 would be most likely to use that training --</p> <p>17 Q They encounter individuals.</p> <p>18 A -- and some sergeants, yes.</p> <p>19 Q Sure. They're the people on the street.</p> <p>20 A Yes.</p> <p>21 Q And did you understand, when you worked at</p> <p>22 the county, that CIT focuses on deescalation</p> <p>23 strategies?</p> <p>24 A Yes.</p> <p>25 MR. PLUNKERT: I'm not sure he was done</p>
<p style="text-align: right;">58</p> <p>1 Q So, for example, if an individual took</p> <p>2 Taser training through Mr. Brannon and didn't</p> <p>3 receive a certificate of completion, the best</p> <p>4 evidence would be a sign-in sheet?</p> <p>5 A Yes.</p> <p>6 Q And if you use an electronic database to</p> <p>7 track the trainings, it would be logged in the</p> <p>8 electronic database?</p> <p>9 A It should be, yes.</p> <p>10 Q What is CIT?</p> <p>11 A Crisis Intervention Team.</p> <p>12 Q Did you --</p> <p>13 A It's -- I'll expand on it. Sorry.</p> <p>14 Q Absolutely. It's a broad term.</p> <p>15 A Yes, it is. It's -- it's a program to</p> <p>16 train officers to deal with individuals in emotional</p> <p>17 or other type of distress. It was our intention --</p> <p>18 my intention to have all our officers trained in</p> <p>19 CIT.</p> <p>20 Q When did you first encounter CIT or that</p> <p>21 concept, sir?</p> <p>22 A When I was at St. Louis County Police</p> <p>23 Department.</p> <p>24 Q In what way did you first encounter that</p> <p>25 concept?</p>	<p style="text-align: right;">60</p> <p>1 answering the question on the general --</p> <p>2 BY MR. JOHNSON:</p> <p>3 Q I'm sorry. And I didn't mean to interrupt</p> <p>4 you, sir.</p> <p>5 MR. PLUNKERT: I think you said started to</p> <p>6 say sar -- I don't know, you said patrolmen,</p> <p>7 and you take over from there.</p> <p>8 Did you -- did you finish answering?</p> <p>9 A Some sergeants --</p> <p>10 MR. PLUNKERT: Okay.</p> <p>11 A -- some supervisors, street supervisors,</p> <p>12 would also be trained.</p> <p>13 BY MR. JOHNSON:</p> <p>14 Q Certainly.</p> <p>15 When you first learned of CIT, or Crisis</p> <p>16 Intervention Team training, do you remember the</p> <p>17 person at the county that you first learned that</p> <p>18 from?</p> <p>19 A I think it was Sergeant Barry Armfield was</p> <p>20 talking about it.</p> <p>21 Q And what did he do within the department,</p> <p>22 sir?</p> <p>23 A He basically made it his own; it became</p> <p>24 his -- his project.</p> <p>25 Q Was he the advocate within the county for</p>

<p style="text-align: right;">61</p> <p>1 CIT?</p> <p>2 A I can't say he was the only advocate for</p> <p>3 it. There were others.</p> <p>4 Q He was to you? You knew him to be</p> <p>5 associated with CIT?</p> <p>6 A Well, there was also Bob Trittler, who</p> <p>7 ended up being a major with the county police</p> <p>8 department, and he was a very big proponent of it as</p> <p>9 well.</p> <p>10 Q Do you remember what department or</p> <p>11 division within the county you were working for when</p> <p>12 you first learned of CIT from Mr. Armfield or</p> <p>13 otherwise?</p> <p>14 A I'm pretty sure that I was by then in the</p> <p>15 drug task force.</p> <p>16 Q And when you learned of this topic, this</p> <p>17 general topic, did you endeavor to undertake or</p> <p>18 learn more about it or did you just hear it?</p> <p>19 A No, we talked about it quite a bit,</p> <p>20 command staff.</p> <p>21 Q Because you were command staff at the</p> <p>22 time?</p> <p>23 A Yes.</p> <p>24 Q So at a county level, how did the command</p> <p>25 staff address that topic? What -- how did it come</p>	<p style="text-align: right;">63</p> <p>1 a patrol level, is because police are the ones who</p> <p>2 are called often to a crisis situation?</p> <p>3 A That that was the idea, yeah, for the</p> <p>4 first responders.</p> <p>5 Q How did the county then train and certify</p> <p>6 their own personnel on CIT?</p> <p>7 A Through the -- through the St. Louis</p> <p>8 County Police Academy.</p> <p>9 Q So there was a separate module or</p> <p>10 component of training for CIT through the county</p> <p>11 academy during the time you worked for the county?</p> <p>12 A Yes.</p> <p>13 Q And do you know who directed that?</p> <p>14 A I'm pretty sure it was Major Trittler and</p> <p>15 Sergeant Armfield.</p> <p>16 Q Do they still do that to this day?</p> <p>17 A No.</p> <p>18 Q Are they retired?</p> <p>19 A I think so, yeah.</p> <p>20 Q Do you know if that program still exists</p> <p>21 as a training module with the county academy?</p> <p>22 A They're still teaching it, yes.</p> <p>23 Q Did it have -- when you were command</p> <p>24 staff, did it have a favorable or beneficial</p> <p>25 outcome? I mean, did you receive feedback on the</p>
<p style="text-align: right;">62</p> <p>1 up and what did they do to promulgate or implement</p> <p>2 things associated with that topic?</p> <p>3 A I think they -- we made the decision to</p> <p>4 implement that training and to make it available</p> <p>5 through the St. Louis County Police Academy.</p> <p>6 Q Is that a separate academy from the</p> <p>7 Eastern Missouri Academy?</p> <p>8 A Yes, it is.</p> <p>9 Q Is that the same academy you graduated</p> <p>10 from, the St. Louis academy?</p> <p>11 A No. No. I graduated from the St. Louis</p> <p>12 Metro Academy right down the street here,</p> <p>13 St. Louis -- it's actually the St. Louis County and</p> <p>14 Municipal Police Academy, which is in Wellston.</p> <p>15 Q Okay.</p> <p>16 A Eastern Missouri there is out in</p> <p>17 St. Charles.</p> <p>18 Q Did you ever teach at that academy when</p> <p>19 you were with the county?</p> <p>20 A Sure.</p> <p>21 Q What topics did you train at the St. Louis</p> <p>22 County Academy, the county?</p> <p>23 A Blood-borne pathogens response, taught a</p> <p>24 section in that. Informant management.</p> <p>25 Q Did you understand that CIT, especially at</p>	<p style="text-align: right;">64</p> <p>1 effectiveness of CIT?</p> <p>2 A Yes.</p> <p>3 Q What feedback did you receive when you</p> <p>4 were a commander at the county about the</p> <p>5 effectiveness of CIT?</p> <p>6 A In general terms, just that that was the</p> <p>7 case and that it was a program worth retaining.</p> <p>8 Q Did you receive feedback that it increases</p> <p>9 officer and citizen safety?</p> <p>10 A That was generally the -- the attitude</p> <p>11 towards it, yeah.</p> <p>12 Q Did you receive feedback that it decreased</p> <p>13 police liability or litigation?</p> <p>14 A I didn't know about that.</p> <p>15 Q Did you receive anecdotal evidence that</p> <p>16 the use of CIT within the county prevented some</p> <p>17 unfortunate occurrence with a certain individual or</p> <p>18 suspect?</p> <p>19 I mean, was there any specific occurrence</p> <p>20 that somebody addressed and said, "Thank God we had</p> <p>21 CIT because that prevented a bad outcome"?</p> <p>22 A There was generally an award given for a</p> <p>23 particular case throughout the year involving a CIT</p> <p>24 and crisis intervention. Yes, there was anecdotal</p> <p>25 evidence that that was the case.</p>

<p style="text-align: right;">65</p> <p>1 Q Was there a survey or tracking data used</p> <p>2 to track the effectiveness of the CIT program?</p> <p>3 A Not that I'm aware of.</p> <p>4 Q Once you left the county and went to</p> <p>5 Ferguson, did you have any concerns with the</p> <p>6 effectiveness of CIT within law enforcement?</p> <p>7 I mean, when you left, I mean, is there</p> <p>8 something that changed your mind that it was a bad</p> <p>9 program as opposed to a beneficial one?</p> <p>10 A No.</p> <p>11 Q When you got to Ferguson, what efforts did</p> <p>12 you undertake to train your own police staff in CIT?</p> <p>13 A I started sending officers, having the</p> <p>14 commanders send officers to the CIT training. We</p> <p>15 could only do a few at a time because it's a --</p> <p>16 Q It's intensive.</p> <p>17 A It's an intense and long program, it takes</p> <p>18 an officer off the street for a while and it</p> <p>19 decreases manpower. But I let the command staff</p> <p>20 know that it was my intention to have everybody</p> <p>21 trained on the patrol level.</p> <p>22 Q And how did you do that? Did you send an</p> <p>23 email? Did you do it at a command staff meeting?</p> <p>24 How did that -- how was that known?</p> <p>25 A Regular meetings, command staff meetings.</p>	<p style="text-align: right;">67</p> <p>1 A Yes.</p> <p>2 Q And there are different modules or topics</p> <p>3 that you can take continuing education in law</p> <p>4 enforcement in. Among those are interpersonal -- or</p> <p>5 I'm sorry -- legal studies, interpersonal</p> <p>6 perspectives, technical studies and firearms.</p> <p>7 Those are just some of them, correct?</p> <p>8 A Yes.</p> <p>9 Q What module, if it's one of them, is CIT?</p> <p>10 Is that interpersonal to you, or is CIT</p> <p>11 separate and apart?</p> <p>12 A It would -- it would actually have -- it's</p> <p>13 an assigned through the academy. It would have an</p> <p>14 assigned one of these four core areas. So I don't</p> <p>15 know which one they assigned to it, I don't</p> <p>16 remember, but I -- presumably that would be it.</p> <p>17 Q When you undertook it to instruct or ask</p> <p>18 your supervisors to have their officers receive CIT</p> <p>19 training, did you follow up to make sure that that</p> <p>20 was being done?</p> <p>21 A I -- yes. I actually went to the first</p> <p>22 graduation of my officers.</p> <p>23 Q Can you name for me any of the Ferguson</p> <p>24 Police Department officers who were CIT trained</p> <p>25 during your tenure as chief?</p>
<p style="text-align: right;">66</p> <p>1 Q Verbally?</p> <p>2 A Just talking about it, this is what we</p> <p>3 want to do.</p> <p>4 Q You started in March of 2010.</p> <p>5 At what point after that at Ferguson did</p> <p>6 you first send officers for CIT training?</p> <p>7 A I don't remember. It was -- it was up on</p> <p>8 the priority list, so it would have been not too</p> <p>9 long after that.</p> <p>10 Q Why was it a priority?</p> <p>11 A I thought the training would be good --</p> <p>12 good for the officers.</p> <p>13 Q And was there a training person such as</p> <p>14 Mr. Henke that was in charge of enrolling people for</p> <p>15 CIT training at Ferguson?</p> <p>16 A It was up to the supervisors to -- you</p> <p>17 know, the lieutenants, to make training available</p> <p>18 for their officers, and then it was Greg McDanel who</p> <p>19 would -- he was the official person to make the</p> <p>20 applications. Each agency has one person that</p> <p>21 applies for training at the academy.</p> <p>22 Q Exhibit 2, which again discusses training,</p> <p>23 it's a general order you drafted, on page 2, the</p> <p>24 lower portion of page 2 talks about post-commission</p> <p>25 requirements for education or training, correct?</p>	<p style="text-align: right;">68</p> <p>1 A Not at the moment, no.</p> <p>2 Q Do you have an estimate as to the</p> <p>3 percentage of Ferguson Police Department officers</p> <p>4 who are CIT trained as of the first year you were</p> <p>5 there?</p> <p>6 A No, I don't.</p> <p>7 Q And the training that you had the officers</p> <p>8 receive was taken where?</p> <p>9 A At the St. Louis County Police Academy.</p> <p>10 Q Where you used to work?</p> <p>11 A Yes.</p> <p>12 Q And when you started at Ferguson in 2010,</p> <p>13 was there a different CIT trainer at the St. Louis</p> <p>14 County Academy other than the names of the retirees</p> <p>15 you told me about before?</p> <p>16 A I don't know. I don't remember.</p> <p>17 Q And part of this is you're taking</p> <p>18 patrolmen off the street? I mean, they're there 40</p> <p>19 hours for the training or so, correct?</p> <p>20 A Yes.</p> <p>21 Q It's training that they're there basically</p> <p>22 for a workweek?</p> <p>23 A Yes.</p> <p>24 Q And -- meaning they can't work as a patrol</p> <p>25 officer?</p>

<p style="text-align: right;">69</p> <p>1 A Yes.</p> <p>2 Q Was there budgetary concerns at Ferguson</p> <p>3 for taking too many people off the street to do CIT</p> <p>4 training?</p> <p>5 A Budgetary, no.</p> <p>6 Q Was it a money issue to you that we didn't</p> <p>7 want people to take CIT training because they</p> <p>8 couldn't be working for us?</p> <p>9 A No. It was a staffing issue.</p> <p>10 Q So when the decision was made -- strike</p> <p>11 that. Was the decision, to your knowledge, to take</p> <p>12 CIT training voluntary to the officer, or were some</p> <p>13 selected and instructed to take CIT training?</p> <p>14 A It was my intention to make it mandatory.</p> <p>15 Q For everybody?</p> <p>16 A Yes.</p> <p>17 Q At some point?</p> <p>18 A Yes.</p> <p>19 Q And did you have a rotation or schedule</p> <p>20 where your officers were to take it?</p> <p>21 A I -- I didn't.</p> <p>22 Q You understood that CIT training was</p> <p>23 offered at various points during the calendar year,</p> <p>24 correct?</p> <p>25 A Yes.</p>	<p style="text-align: right;">71</p> <p>1 can't this guy show up, oh, he's at training, you</p> <p>2 know --</p> <p>3 A Always staffing complaints, but ...</p> <p>4 Q People are going to complain about</p> <p>5 everything.</p> <p>6 A Nothing -- yeah. Nothing specific to this</p> <p>7 that I remember.</p> <p>8 Q Did you receive feedback from the officers</p> <p>9 that went to CIT training?</p> <p>10 A Yes, I did.</p> <p>11 Q What was their feedback to you, sir?</p> <p>12 A They loved it.</p> <p>13 Q Why?</p> <p>14 A They felt the training was excellent and</p> <p>15 the presentation was -- was really well rehearsed.</p> <p>16 Q Between you starting as chief in March of</p> <p>17 2010 and let's say a year later, within that first</p> <p>18 year, did you receive anecdotal evidence similar to</p> <p>19 what you received at the county about the</p> <p>20 effectiveness of CIT training?</p> <p>21 A I don't remember anything specific.</p> <p>22 Q Did you give out any commendations or</p> <p>23 awards to officers for having an effective use of</p> <p>24 CIT?</p> <p>25 A I gave out a lot of awards, so I can't put</p>
<p style="text-align: right;">70</p> <p>1 Q Not just a one-shot deal?</p> <p>2 A Right.</p> <p>3 Q Did you, as Chief of Police of Ferguson,</p> <p>4 make sure that every rotation of CIT training was</p> <p>5 staffed by as many people as you could get in it?</p> <p>6 MR. PLUNKERT: Object to form and</p> <p>7 foundation.</p> <p>8 MR. JOHNSON: That was a poorly worded</p> <p>9 question. Let me ask a better one.</p> <p>10 BY MR. JOHNSON:</p> <p>11 Q As chief of police, when there was</p> <p>12 openings, if there were openings for CIT training,</p> <p>13 did you take it upon yourself to ensure that you had</p> <p>14 enrolled as many police officers as you feasibly</p> <p>15 could?</p> <p>16 A There would be another factor there, and</p> <p>17 that would be staffing.</p> <p>18 Q Sure. Because you have staffing of</p> <p>19 shifts, correct?</p> <p>20 A Yes.</p> <p>21 Q Did Ferguson sending officers to the</p> <p>22 county academy for CIT training become a staffing</p> <p>23 issue, to your knowledge?</p> <p>24 A I don't have any specific memory of that.</p> <p>25 Q No complaints, no concerns, you know, why</p>	<p style="text-align: right;">72</p> <p>1 my finger on any one right now.</p> <p>2 Q Okay. Staffing, when it came to staffing,</p> <p>3 first of all, who did it? Who was in charge of</p> <p>4 staffing the shifts during the time you were chief?</p> <p>5 A In general, the commander of field</p> <p>6 operations, Captain Henke. And he actually did a</p> <p>7 lot of the scheduling, although the -- the watch</p> <p>8 commanders, the lieutenants, and then sometimes the</p> <p>9 sergeants, had the option of moving those around</p> <p>10 to -- to make sure that all beats were manned.</p> <p>11 Q And what -- how many shifts did you guys</p> <p>12 operate at Ferguson? How did it work?</p> <p>13 A When I started there, it was three</p> <p>14 eight-hour shifts backward rotation. Ultimately, we</p> <p>15 went to the 12-hour shift.</p> <p>16 (Deposition Exhibit Number 3</p> <p>17 marked for identification.)</p> <p>18 BY MR. JOHNSON:</p> <p>19 Q I'm going to hand you Exhibit 3,</p> <p>20 Mr. Jackson, which I understand to be another</p> <p>21 general order that was utilized in Ferguson.</p> <p>22 Do you see that, sir?</p> <p>23 A Yes.</p> <p>24 Q What is Exhibit 3?</p> <p>25 A Daily assignments and monthly work</p>

<p style="text-align: right;">73</p> <p>1 schedules, General Order 200, November 30th, 2011.</p> <p>2 Q Is this the staffing schedule that you</p> <p>3 created as chief of police, sir?</p> <p>4 A It is.</p> <p>5 Q And it's dated November 30th, 2011.</p> <p>6 Do you know if there was a prior general</p> <p>7 order that would have been in effect between March</p> <p>8 of 2010 and November 30th of 2011 as it pertains to</p> <p>9 daily assignments and monthly work schedules?</p> <p>10 A I don't have specific memory of that.</p> <p>11 Q You don't have specific memory whether you</p> <p>12 created a new general order on this topic or just</p> <p>13 revised an old one?</p> <p>14 A That's correct.</p> <p>15 Q And in -- let's say between 2010 and</p> <p>16 midpoint of 2011, okay, was it Mr. Henke who was the</p> <p>17 one who did staffing?</p> <p>18 A Yes. And if I may interject, this general</p> <p>19 order has obviously been -- was for the 12-hour</p> <p>20 shift, not the backward rotating eight-hour shift.</p> <p>21 Let me clarify that.</p> <p>22 Q Would Exhibit 3 apply to patrol officers</p> <p>23 at Ferguson for their staffing and their scheduling?</p> <p>24 A Yes.</p> <p>25 Q And if you know, how did Mr. Henke</p>	<p style="text-align: right;">75</p> <p>1 Mr. Henke was complying with your directive to</p> <p>2 ensure that a CIT-trained patrolman was on each</p> <p>3 shift?</p> <p>4 A There was no specific tracking of that.</p> <p>5 Q Did you extend your implementation of the</p> <p>6 CIT program to the communications division?</p> <p>7 A Yes. Yes, we did.</p> <p>8 Q When did you do that, sir?</p> <p>9 A Again, specific dates I -- I can't recall.</p> <p>10 Q Do you know whether, as of September 2011,</p> <p>11 that you had CIT-trained personnel working in</p> <p>12 communications?</p> <p>13 A Yes. Say that date again.</p> <p>14 Q September 2011.</p> <p>15 A I don't --</p> <p>16 Q So about a year and a half into your</p> <p>17 tenure?</p> <p>18 A I don't know.</p> <p>19 Q Do you know within the first 18 months of</p> <p>20 your tenure whether you had sent any communications</p> <p>21 personnel for CIT training?</p> <p>22 A I -- I just can't give you a specific date</p> <p>23 on when that happened.</p> <p>24 Q At St. Louis County did you have a</p> <p>25 communications division?</p>
<p style="text-align: right;">74</p> <p>1 actually implement the staffing? Did he -- first of</p> <p>2 all, did he do it on his own?</p> <p>3 A Yes. He took large responsibility for</p> <p>4 making out the schedule and did it with paper and</p> <p>5 pencil for quite a long time. Eventually we went to</p> <p>6 electronic, but the officers and supervisors still</p> <p>7 maintained the paper and pencil because of the</p> <p>8 potential need to revise that on short notice,</p> <p>9 someone calls in sick or something to that effect.</p> <p>10 Q Do you know if Mr. Henke ever used as a</p> <p>11 staffing consideration ensuring that a CIT-trained</p> <p>12 officer was on each staff, on each shift?</p> <p>13 A That was my instruction.</p> <p>14 Q When did you provide that instruction?</p> <p>15 A I don't recall. It just was the -- the</p> <p>16 intention that we -- we had as a staff, part of</p> <p>17 the -- implementing the CIT.</p> <p>18 Q And why did you want a CIT-trained</p> <p>19 patrolman on each shift?</p> <p>20 A To provide that extra expertise in</p> <p>21 situations where it may be warranted.</p> <p>22 Q And those situations obviously could be</p> <p>23 somebody who's emotionally unstable?</p> <p>24 A Yes.</p> <p>25 Q Did you -- how did you track whether</p>	<p style="text-align: right;">76</p> <p>1 A Yes.</p> <p>2 Q Use your own 911 operators?</p> <p>3 A Yes.</p> <p>4 Q Use your own dispatchers?</p> <p>5 A Yes.</p> <p>6 Q When you were at St. Louis County, were</p> <p>7 your own communications department personnel trained</p> <p>8 in CIT?</p> <p>9 A I don't know.</p> <p>10 Q When you signed on at Ferguson to be the</p> <p>11 chief executive officer, did you make it a priority</p> <p>12 to make sure that not only the patrolmen on the</p> <p>13 street but also the communications division who</p> <p>14 would deal with individuals were CIT trained?</p> <p>15 A My first priority with communications was</p> <p>16 to make sure that they had a procedure manual and</p> <p>17 specific initial training guidelines.</p> <p>18 Q And the procedure manual, is that the</p> <p>19 general orders or is that something different?</p> <p>20 A It's a specific set of general orders</p> <p>21 specifically for communications officers. It's</p> <p>22 rolled in.</p> <p>23 Q I'm sorry. No, go ahead, go ahead.</p> <p>24 A It's rolled into the general orders</p> <p>25 manual, but we made it a separate manual also for</p>

<p style="text-align: right;">77</p> <p>1 communications.</p> <p>2 Q Similar to the patrol, what efforts did</p> <p>3 you undertake to ensure that there was a CIT-trained</p> <p>4 individual working on each shift in communications?</p> <p>5 A That was up to the supervisor of</p> <p>6 communications. Communications is a lot more</p> <p>7 problematic because there's a lot of turnover, so</p> <p>8 that was -- that would be a difficult proposition at</p> <p>9 best.</p> <p>10 Q In 2011 who was the supervisor of the</p> <p>11 communications department at Ferguson?</p> <p>12 A Sergeant ... Sergeant Bill Mudd was</p> <p>13 initially, and I started there and then it was</p> <p>14 Sergeant Mike Wood. The first one was -- well, I'm</p> <p>15 sorry. The first one was Bill Mudd, and he was</p> <p>16 followed by Sergeant Mike Wood.</p> <p>17 MR. PLUNKERT: Do you want to take a</p> <p>18 break?</p> <p>19 MR. JOHNSON: Yeah, let's do that.</p> <p>20 THE VIDEOGRAPHER: We're off the record at</p> <p>21 10:32.</p> <p>22 (Recess taken.)</p> <p>23 THE VIDEOGRAPHER: We're back on the</p> <p>24 record at 10:49. This begins disk number 2 in</p> <p>25 the deposition of Chief Thomas Jackson. Please</p>	<p style="text-align: right;">79</p> <p>1 BY MR. JOHNSON:</p> <p>2 Q This is a general order that you</p> <p>3 promulgated, sir?</p> <p>4 A Yes.</p> <p>5 Q And it was effective two months or so</p> <p>6 after you started?</p> <p>7 A Yes.</p> <p>8 Q Do you remember wanting to address</p> <p>9 employee misconduct early in your tenure?</p> <p>10 A Yes.</p> <p>11 Q Why?</p> <p>12 A There are several things that are</p> <p>13 important to a police chief, those being use of</p> <p>14 force, internal affairs investigations, domestic</p> <p>15 violence and other issues. It's just a matter of</p> <p>16 prioritizing.</p> <p>17 Q Absolutely. And under this general order,</p> <p>18 that, again, would have been applicable your entire</p> <p>19 period of time as chief? I didn't get any others.</p> <p>20 A Unless's there's a revision, then yes.</p> <p>21 Q Okay. So this general order,</p> <p>22 Exhibit Number 4 --</p> <p>23 A Seven. Oh.</p> <p>24 Q That's my handwriting.</p> <p>25 A Okay. Sorry.</p>
<p style="text-align: right;">78</p> <p>1 continue.</p> <p>2 BY MR. JOHNSON:</p> <p>3 Q I want to switch topics for a second,</p> <p>4 Mr. Jackson, and I want to focus on a couple of</p> <p>5 other policies. I'm not going to show you every</p> <p>6 general order that you ever signed, but I do want to</p> <p>7 make sure I understand some of the different aspects</p> <p>8 of some of them, so I'm probably going to mark a</p> <p>9 handful of these general orders and make sure I</p> <p>10 understand some of the different topics</p> <p>11 operationally that would have existed within the</p> <p>12 police department at Ferguson.</p> <p>13 I want to bypass and kind of jump all the</p> <p>14 way back to an allegation of employee misconduct and</p> <p>15 then kind of go from there on some discipline issues</p> <p>16 just to give you a roadmap where I'm headed.</p> <p>17 First of all, I'm going to mark as</p> <p>18 Exhibit 4 another general order that I received in</p> <p>19 this case and ask if you could please identify that</p> <p>20 for me, sir.</p> <p>21 (Deposition Exhibit Number 4</p> <p>22 marked for identification.)</p> <p>23 A General Order 301.00, dated May 21st,</p> <p>24 2010, Allegations of Employee Misconduct Internal</p> <p>25 Affairs Investigations.</p>	<p style="text-align: right;">80</p> <p>1 Q Totally my fault.</p> <p>2 A I apologize.</p> <p>3 Q It's 4.</p> <p>4 A Got it.</p> <p>5 Q Who was the professional standards</p> <p>6 inspector at Ferguson when you were chief?</p> <p>7 A That is a position that I rotated among</p> <p>8 the command staff.</p> <p>9 Q So there was no set person?</p> <p>10 A No, there was not.</p> <p>11 Q How often was it rotated?</p> <p>12 A Probably every six months.</p> <p>13 Q And how many different members of the</p> <p>14 Ferguson Police Department were called command staff</p> <p>15 during the time you were chief?</p> <p>16 A Three captains and three lieutenants.</p> <p>17 Q Six?</p> <p>18 A Yes.</p> <p>19 Q All overseeing a different department of</p> <p>20 the department -- division of the department?</p> <p>21 A Some worked in the same division. Patrol</p> <p>22 captain had two lieutenants.</p> <p>23 Q I've seen the name of a Lieutenant</p> <p>24 Ballard.</p> <p>25 A Yes.</p>

<p style="text-align: right;">81</p> <p>1 Q Are you familiar with Mr. Ballard?</p> <p>2 A Yes.</p> <p>3 Q And was he a patrol captain in September</p> <p>4 of 2011, if you know?</p> <p>5 A He was a patrol lieutenant.</p> <p>6 Q Patrol lieutenant, meaning he oversaw the</p> <p>7 sergeants who then oversaw the police officers who</p> <p>8 were on patrol, correct?</p> <p>9 A Yes.</p> <p>10 Q And so was Mr. Ballard at one point a</p> <p>11 professional standards inspector at Ferguson?</p> <p>12 A No.</p> <p>13 Q And the professional standards inspectors,</p> <p>14 whoever that may have been at the time, would</p> <p>15 receive and review allegations of brutality?</p> <p>16 A Yes.</p> <p>17 Q Misuse of force?</p> <p>18 A Yes.</p> <p>19 Q Breach of civil rights?</p> <p>20 A Yes.</p> <p>21 Q Corruption?</p> <p>22 A Yes.</p> <p>23 Q And criminal misconduct?</p> <p>24 A Yes.</p> <p>25 Q And those complaints, if they were</p>	<p style="text-align: right;">83</p> <p>1 this out. It would come to me. I would assign</p> <p>2 it a -- an internal affairs decision file</p> <p>3 that -- division file number and then assign it</p> <p>4 to a commander.</p> <p>5 BY MR. JOHNSON:</p> <p>6 Q Did all complaints made by citizens come</p> <p>7 to you?</p> <p>8 A All written complaints, yes.</p> <p>9 Q Through all written?</p> <p>10 A Yes.</p> <p>11 Q What about verbal?</p> <p>12 A Sometimes those could be handled by a</p> <p>13 supervisor on the street and I wouldn't be aware of</p> <p>14 it.</p> <p>15 Q And if they were written, how were they</p> <p>16 routed to you? Who would provide them to you?</p> <p>17 A The commander that was assigned to the</p> <p>18 investigation would give me a written memorandum</p> <p>19 detailing the investigation, the conclusions.</p> <p>20 Q Would the conclusions as to whether the</p> <p>21 complaint was warranted be made before it was</p> <p>22 presented to you for your review?</p> <p>23 A It would be an opinion of the</p> <p>24 investigator, yes.</p> <p>25 Q So the investigator would make the</p>
<p style="text-align: right;">82</p> <p>1 provided by a citizen, could be complaints made</p> <p>2 verbally?</p> <p>3 A Yes.</p> <p>4 Q They could be made in writing?</p> <p>5 A Yes.</p> <p>6 Q They could be made verbally and reduced to</p> <p>7 writing?</p> <p>8 A Yes.</p> <p>9 Q And just so I understand how things</p> <p>10 operationally worked when it came to citizen</p> <p>11 complaints, if a citizen comes off the street and</p> <p>12 makes a complaint, are they referred to the</p> <p>13 professional standards inspector, or do they give</p> <p>14 that complaint to somebody else within the</p> <p>15 department?</p> <p>16 A So the complaint -- do you have the form</p> <p>17 in here?</p> <p>18 Q I probably do have a template in there, if</p> <p>19 you want to look at it.</p> <p>20 A Okay. This is the complaint form that I</p> <p>21 created.</p> <p>22 MR. PLUNKERT: Was that Bates stamped 495?</p> <p>23 MR. JOHNSON: Thank you.</p> <p>24 THE WITNESS: Yes. And if a citizen</p> <p>25 wanted to make a complaint, they would fill</p>	<p style="text-align: right;">84</p> <p>1 preliminary opinion, you would then review the</p> <p>2 complaint yourself?</p> <p>3 A No.</p> <p>4 Q And you obviously had the discretion to</p> <p>5 determine whether or not the complaint was warranted</p> <p>6 or not warranted?</p> <p>7 A Yes.</p> <p>8 Q Once the complaint left your desk, where</p> <p>9 did it go, sir?</p> <p>10 A Into a file, a locked file.</p> <p>11 Q And what's that file called?</p> <p>12 A Complaints file.</p> <p>13 Q Who maintained the file in 2010, when you</p> <p>14 started?</p> <p>15 A Prior to me?</p> <p>16 Q Well, when you started who maintained it?</p> <p>17 A Oh. Me.</p> <p>18 Q And were you the person who maintained the</p> <p>19 complaint file that were written complaints made</p> <p>20 about representatives of the Ferguson Police</p> <p>21 Department the entire period of time you were chief?</p> <p>22 A Yes.</p> <p>23 Q So the five years that you were chief</p> <p>24 executive officer, if it was a written complaint</p> <p>25 routed to you, you kept it?</p>

<p style="text-align: right;">85</p> <p>1 A Yes.</p> <p>2 Q The reason I ask is, I'm not sure that I</p> <p>3 have -- and counsel can correct me if I'm wrong.</p> <p>4 I'm not sure that we have any written complaints</p> <p>5 that predate September of 2011.</p> <p>6 Do you know what you did with all the</p> <p>7 complaints, to the extent they were made, that you</p> <p>8 had in your possession?</p> <p>9 A They were all in that file.</p> <p>10 Q And the file was just called complaints?</p> <p>11 A It was -- it was the internal affairs</p> <p>12 complaints file.</p> <p>13 Q Is there a difference between citizen</p> <p>14 complaints and internal-affairs-related complaints?</p> <p>15 A If a supervisor made a complaint against</p> <p>16 an officer, it was still maintained in the same</p> <p>17 file, so technically, no.</p> <p>18 Q So whether the complaint came from a</p> <p>19 citizen against an officer or an officer against an</p> <p>20 officer, all of those complaints were routed to you</p> <p>21 for your review?</p> <p>22 A Yes.</p> <p>23 Q And is there a different approach that</p> <p>24 Ferguson undertook when you were chief in reviewing</p> <p>25 citizen complaints of an officer versus officer</p>	<p style="text-align: right;">87</p> <p>1 Police Department officer, did that complaint become</p> <p>2 part of the officer's personnel file?</p> <p>3 MR. PLUNKERT: Object to the form.</p> <p>4 BY MR. JOHNSON:</p> <p>5 Q If you know.</p> <p>6 A That became a part of his police file.</p> <p>7 Q Okay. Let's talk about files for a</p> <p>8 second. Are there personnel files maintained on</p> <p>9 officers by Ferguson Police Department?</p> <p>10 A Yes.</p> <p>11 Q Did you do that when you were chief? Were</p> <p>12 you the one who actually maintained the personnel</p> <p>13 files of the department officers?</p> <p>14 A No. We -- we took them all immediately</p> <p>15 and turned them over to Human Resources, so they</p> <p>16 were all -- all city employees were essentially</p> <p>17 located in City Hall.</p> <p>18 Q So when you started as police chief in</p> <p>19 March of 2010, all police department personnel files</p> <p>20 were sent to the City of Ferguson City Hall?</p> <p>21 A Yes.</p> <p>22 Q To be maintained by City of Ferguson human</p> <p>23 resources representatives?</p> <p>24 A Correct.</p> <p>25 Q Did you maintain a separate personnel file</p>
<p style="text-align: right;">86</p> <p>1 complaints of an officer?</p> <p>2 A Only in that in a citizen complaint, you</p> <p>3 know, we would communicate the finding.</p> <p>4 Q If you know, did you receive complaints</p> <p>5 about officers from citizens in the first year you</p> <p>6 were in office? For any reason.</p> <p>7 A I can't say for certainty any specific</p> <p>8 one, but it seemed that -- it seemed that there</p> <p>9 were.</p> <p>10 Q Did you receive a complaint that you</p> <p>11 deemed to be a complaint involving physical abuse of</p> <p>12 an officer by a citizen the first year you were</p> <p>13 chief?</p> <p>14 A I don't remember any specific examples.</p> <p>15 Q Did you ever receive a citizen complaint</p> <p>16 about an officer of the Ferguson Police Department</p> <p>17 involving an improper or inappropriate use of force</p> <p>18 during the first year you were chief?</p> <p>19 A I don't remember.</p> <p>20 Q Have you ever received a complaint about</p> <p>21 an officer inappropriately using a Taser device on a</p> <p>22 citizen during the time you were Ferguson police</p> <p>23 chief other than the complaint I'm here for today?</p> <p>24 A I don't remember.</p> <p>25 Q If a complaint was made against a Ferguson</p>	<p style="text-align: right;">88</p> <p>1 in addition to the file maintained by HR?</p> <p>2 A Only the internal affairs investigations.</p> <p>3 Any -- any discipline would be reported to human</p> <p>4 resources.</p> <p>5 Q And what documents generally are comprised</p> <p>6 in an internal affairs file?</p> <p>7 A Generally it's going to be this form,</p> <p>8 0495.</p> <p>9 Q Okay.</p> <p>10 A And then a memorandum from the</p> <p>11 investigating supervisor who would detail</p> <p>12 interviews, any evidence, any investigation that was</p> <p>13 conducted, the listing of the general orders that</p> <p>14 was alleged to have been violated, and then a</p> <p>15 conclusion by that investigator on whether or not</p> <p>16 they believe the allegations were in full or in part</p> <p>17 valid.</p> <p>18 Q Would citizen complaints against an</p> <p>19 officer be part of the internal affairs files that</p> <p>20 you kept?</p> <p>21 A Yes.</p> <p>22 Q Would the investigation into those citizen</p> <p>23 complaints be kept in the internal affairs files you</p> <p>24 kept?</p> <p>25 A Yes.</p>

<p style="text-align: right;">89</p> <p>1 Q We used the term "complaint files"</p> <p>2 earlier.</p> <p>3 A Yes.</p> <p>4 Q Is complaint file and internal affair file</p> <p>5 one and the same in your mind?</p> <p>6 A Yes.</p> <p>7 Q Got it. Did you continue the process of</p> <p>8 your predecessor in doing that, sir?</p> <p>9 A I don't actually know what his process</p> <p>10 was.</p> <p>11 Q When you got to your office and moved in,</p> <p>12 were there personnel files there or internal affair</p> <p>13 files, as you said earlier?</p> <p>14 That's two questions. Let me break it up.</p> <p>15 A Okay.</p> <p>16 Q When you moved in, were there old</p> <p>17 complaint or internal affair files present in your</p> <p>18 office for officers?</p> <p>19 A The files were kept by the individual</p> <p>20 supervisors or commanders.</p> <p>21 Q Okay.</p> <p>22 A I consolidated them.</p> <p>23 Q So the six supervisors or commanders, I</p> <p>24 think you told me earlier, they were kept kind of</p> <p>25 department by department?</p>	<p style="text-align: right;">91</p> <p>1 A Yes.</p> <p>2 Q Describe for me the size of it. Big,</p> <p>3 small, medium?</p> <p>4 A It was --</p> <p>5 Q One cabinet, two cabinets? You tell me.</p> <p>6 A One file drawer.</p> <p>7 Q You're kind of gesturing, and we're on a</p> <p>8 tape, we can see these things, but describe for me</p> <p>9 what it looked like.</p> <p>10 A One standard-size file drawer, desk-type</p> <p>11 file drawer.</p> <p>12 Q And was that kept a folder per officer?</p> <p>13 A No. It was kept by the IAB number which</p> <p>14 you see at the top of the complaint form, 0495.</p> <p>15 Q So did you try and keep that</p> <p>16 chronologically, then?</p> <p>17 A I kept it chronologically, yes.</p> <p>18 Q If there was a lawsuit against an officer</p> <p>19 for whatever claim, did you keep the lawsuit as part</p> <p>20 of the internal affairs file?</p> <p>21 A No.</p> <p>22 Q Would you consider a lawsuit to be a</p> <p>23 citizen complaint against an officer?</p> <p>24 A No, not in the -- not in the sense that</p> <p>25 this is a direct complaint to the police department</p>
<p style="text-align: right;">90</p> <p>1 A By division.</p> <p>2 Q Division. I'm sorry.</p> <p>3 A Yes.</p> <p>4 Q And how many divisions were there when you</p> <p>5 started as chief?</p> <p>6 A Just the two, but there was also a</p> <p>7 separate unit that -- that oversaw the civilian</p> <p>8 employees, and that was maintained separately as</p> <p>9 well.</p> <p>10 Q So going forward, after you started as</p> <p>11 chief, you then maintained internal affair files for</p> <p>12 five years on each officer?</p> <p>13 A Yes.</p> <p>14 Q And if discipline was rendered relating to</p> <p>15 a complaint, HR in the city would be the one to</p> <p>16 receive the disposition?</p> <p>17 A Yes.</p> <p>18 Q Did you provide a copy of the internal</p> <p>19 affair files to HR at the City of Ferguson, or did</p> <p>20 you keep that separate?</p> <p>21 A I kept that separate.</p> <p>22 Q When you resigned, you still had the</p> <p>23 internal affair files in your office?</p> <p>24 A Yes.</p> <p>25 Q And there were things in those files?</p>	<p style="text-align: right;">92</p> <p>1 from a citizen, so no.</p> <p>2 Q So lawsuits, to the extent they existed,</p> <p>3 would not be maintained in the IA files?</p> <p>4 A They were managed separately.</p> <p>5 Q By who?</p> <p>6 A By counsel.</p> <p>7 Q In-house counsel or outside?</p> <p>8 A Both.</p> <p>9 Q And so when I say "in house," that's</p> <p>10 somebody at City Hall?</p> <p>11 A Yes.</p> <p>12 Q Ms. Karr?</p> <p>13 A Yes.</p> <p>14 Q Is she still there?</p> <p>15 A To the best of my knowledge, yes.</p> <p>16 Q Do you know whether there were complaints</p> <p>17 that were written for any reason between 2010 and</p> <p>18 2014 that you received about an officer?</p> <p>19 A Yes.</p> <p>20 Q How many?</p> <p>21 A It seemed to me, when I was reviewing this</p> <p>22 last year, we had an average of three per month over</p> <p>23 that time, which included supervisor complaints.</p> <p>24 Q Sure. Meaning complaints against a</p> <p>25 supervisor or a supervisor complaining about a</p>

<p style="text-align: right;">93</p> <p>1 subordinate?</p> <p>2 A What I meant is a supervisor complaining</p> <p>3 against a subordinate, but it would work both ways.</p> <p>4 Q Sure.</p> <p>5 A A subordinate could make a complaint</p> <p>6 against a supervisor.</p> <p>7 Q It could be an HR issue, I mean, it could</p> <p>8 be he's working me too much, something like that?</p> <p>9 A Often, yeah.</p> <p>10 Q You kept all types of complaints, correct?</p> <p>11 A Anything that was put in writing and</p> <p>12 investigated -- or anything that was investigated</p> <p>13 was -- I kept a file on.</p> <p>14 Q Out of the 36 per year, on average, and</p> <p>15 I'm using your numbers, so tell me if I'm wrong, out</p> <p>16 of the 36 per year on average, how many of them did</p> <p>17 you find to be warranted?</p> <p>18 A I couldn't give you an accurate number on</p> <p>19 that.</p> <p>20 Q Did you find any complaint to be warranted</p> <p>21 for any reason?</p> <p>22 A Yes.</p> <p>23 Q Was that commonplace with you, or was that</p> <p>24 unusual that you found a complaint to be</p> <p>25 substantiated or warranted?</p>	<p style="text-align: right;">95</p> <p>1 2014, 2015, five years, did you make five reports to</p> <p>2 the city manager compiling IA statistics?</p> <p>3 A Did you say 2010?</p> <p>4 Q Well, starting in 2011.</p> <p>5 A Then yes, my administrative assistant</p> <p>6 would just come to me and ask me for the stats, and</p> <p>7 I would give them to her and she would ...</p> <p>8 Q Did you draft the log yourself, sir?</p> <p>9 A I kept the log myself, yes.</p> <p>10 Q And so was that a separate document that</p> <p>11 you maintained along with the various</p> <p>12 chronologically ordered complaints?</p> <p>13 A Yes.</p> <p>14 Q Do you still have copies of any of these</p> <p>15 documents since you separated employment?</p> <p>16 A No.</p> <p>17 Q Did you take any operational documents</p> <p>18 with you, sir?</p> <p>19 A No, I did not. I tried to take my own</p> <p>20 documents with me and they weren't on the disk, the</p> <p>21 thumb drive.</p> <p>22 Q Yeah.</p> <p>23 A I lost them all.</p> <p>24 Q Technology.</p> <p>25 A Yeah.</p>
<p style="text-align: right;">94</p> <p>1 A Probably less often than not.</p> <p>2 Q And to be fair to you, there are</p> <p>3 definitions on page 6 of Exhibit 4.</p> <p>4 A Yes.</p> <p>5 Q We see unfounded, exonerated, withdrawn,</p> <p>6 not sustained, and sustained. Are those terms that</p> <p>7 you used?</p> <p>8 A Yes.</p> <p>9 Q So when you would make a recommendation or</p> <p>10 disposition of a complaint, did you utilize the</p> <p>11 terms we see on page 6 of Exhibit 4?</p> <p>12 A Yes.</p> <p>13 Q And the Annual Statistical Summaries that</p> <p>14 are referenced on page 8 of Exhibit 4, where were</p> <p>15 those maintained or located at Ferguson?</p> <p>16 A I kept a log of all complaints, and they</p> <p>17 were all kept by the complaint number and</p> <p>18 complainant, officer complained against, and the</p> <p>19 disposition. And that was made in an annual report</p> <p>20 that went to the city manager.</p> <p>21 Q When did you make that report? Was there</p> <p>22 a certain month, fiscal year, calendar year that you</p> <p>23 made that to the city manager?</p> <p>24 A Usually after the first of the year.</p> <p>25 Q So in your tenure, early 2011, 2012, 2013,</p>	<p style="text-align: right;">96</p> <p>1 Q Did you categorize the statistical</p> <p>2 summaries in any type of complaint fashion, such as</p> <p>3 this is one about corruption, this is one about use</p> <p>4 of force? Was it set forth in that manner?</p> <p>5 A Not -- no, it was not.</p> <p>6 Q Tell me the layout and design of the log.</p> <p>7 Was it -- you told me before. Is it just number,</p> <p>8 complainant, disposition?</p> <p>9 A Number, complainant, who the complaint was</p> <p>10 against, and disposition.</p> <p>11 Q And it says the professional standards</p> <p>12 inspector is the one that compiled it. You did it</p> <p>13 yourself?</p> <p>14 A I did it myself.</p> <p>15 Q The inspectors did not do it?</p> <p>16 A No.</p> <p>17 Q Did you get feedback from Mr. Shaw when</p> <p>18 you would meet with him about the statistical</p> <p>19 summaries? Strike that. Let me ask a better</p> <p>20 question.</p> <p>21 Did you meet with him about the</p> <p>22 statistical summaries?</p> <p>23 A Yes. I met with him about almost</p> <p>24 everything.</p> <p>25 Q Any concerns that he made to you with the</p>

<p style="text-align: right;">97</p> <p>1 nature of the complaints?</p> <p>2 A Not in general terms, no.</p> <p>3 Q The numerosity of the complaints?</p> <p>4 A No.</p> <p>5 Q Did you consider the complaints to be</p> <p>6 excessive in number?</p> <p>7 A No.</p> <p>8 Q Did you actually give Mr. Shaw a copy of</p> <p>9 the log or did you just meet with him about it?</p> <p>10 A No. My administrative assistant did</p> <p>11 the -- did the log.</p> <p>12 Q So you think, and I know I'm not holding</p> <p>13 you to anything too specific here, but you think</p> <p>14 there may be five logs that you would have given</p> <p>15 Mr. Shaw during your tenure as Ferguson police</p> <p>16 chief?</p> <p>17 A Yes.</p> <p>18 Q And the logs would be kept --</p> <p>19 A It's --</p> <p>20 Q Go ahead.</p> <p>21 A Let me -- because you're saying "log," and</p> <p>22 these would be summaries.</p> <p>23 Q Summaries.</p> <p>24 A Summaries of the complaints for the</p> <p>25 previous year.</p>	<p style="text-align: right;">99</p> <p>1 asked you to do that.</p> <p>2 THE WITNESS: Yeah. When we were talking</p> <p>3 about every officer receiving the Taser</p> <p>4 training --</p> <p>5 MR. JOHNSON: Yes, sir.</p> <p>6 THE WITNESS: -- that -- that was an</p> <p>7 assumption. I'm -- if officers came over and</p> <p>8 were certified, I don't know for certain that</p> <p>9 they sat through a second certification.</p> <p>10 BY MR. JOHNSON:</p> <p>11 Q Okay. So to your knowledge, there were --</p> <p>12 were there any recertifications of Taser-certified</p> <p>13 Ferguson Police Department officers, period?</p> <p>14 A Recertifications ...</p> <p>15 Q Meaning they got a certification, whether</p> <p>16 it be in house or prior to or outside of Ferguson,</p> <p>17 did you ever, to your knowledge, recertify any</p> <p>18 officer on the use of the Taser ECW?</p> <p>19 A What I'm referring to is an officer going</p> <p>20 through the initial certification a second time. I</p> <p>21 don't know that everybody, in fact, did that.</p> <p>22 Q Okay. And then my followup question would</p> <p>23 be, if an officer was certified, to your knowledge,</p> <p>24 was any officer ever recertified?</p> <p>25 A It was my understanding that there was</p>
<p style="text-align: right;">98</p> <p>1 Q And you were the one to determine how the</p> <p>2 complaint would be characterized when you put in the</p> <p>3 summary?</p> <p>4 A Yes.</p> <p>5 Q So if we see -- and I'm going to make</p> <p>6 something up here -- we see a use-of-force</p> <p>7 complaint, you know, somebody hogtied a suspect,</p> <p>8 would you put down use of force as the category?</p> <p>9 A Yes.</p> <p>10 MR. PLUNKERT: Todd, when you're done with</p> <p>11 this line of questioning, I wanted to bring</p> <p>12 something up I just now remembered --</p> <p>13 MR. JOHNSON: Okay.</p> <p>14 MR. PLUNKERT: -- but I don't want to</p> <p>15 get --</p> <p>16 MR. JOHNSON: Well, don't get in my way.</p> <p>17 MR. PLUNKERT: There was a -- something</p> <p>18 that I think he wanted to clarify on the record</p> <p>19 that we forgot to say when he came back on from</p> <p>20 the break.</p> <p>21 MR. JOHNSON: Okay.</p> <p>22 THE WITNESS: Yes.</p> <p>23 MR. PLUNKERT: A previously asked question</p> <p>24 that was --</p> <p>25 MR. JOHNSON: And I appreciate that and I</p>	<p style="text-align: right;">100</p> <p>1 recertification training.</p> <p>2 Q By Mr. Brannon?</p> <p>3 A Yes.</p> <p>4 Q Anybody else?</p> <p>5 A Not that I remember.</p> <p>6 Q Do you know the identity of any personnel</p> <p>7 who are recertified?</p> <p>8 A No. I can't say off the --</p> <p>9 Q Do you know why Mr. Brannon recertified</p> <p>10 certain officers?</p> <p>11 A It would only be a recertification if</p> <p>12 their certification expired or if there was --</p> <p>13 Q Like a driver's license?</p> <p>14 A Yes.</p> <p>15 Q Was there any recertification on the Taser</p> <p>16 ECW because of different guidelines that had been</p> <p>17 promulgated?</p> <p>18 MR. PLUNKERT: Object to foundation.</p> <p>19 MR. JOHNSON: We'll get there on that one.</p> <p>20 BY MR. JOHNSON:</p> <p>21 Q Go ahead.</p> <p>22 A I -- I can't recall any specific</p> <p>23 certification trainings that happened beyond the</p> <p>24 initial.</p> <p>25 Q Fair to say you weren't personally</p>

<p style="text-align: right;">101</p> <p>1 involved in the Taser certification of your 2 officers? 3 A That's very fair to say, yes. 4 Q Fair to say you were not personally 5 involved in the CIT certification of any of your 6 officers? 7 A That's correct. 8 Q Fair to say that you just knew whether or 9 not maybe they had it or didn't have it and that's 10 about it? 11 A Yes. 12 Q And in some cases you may not know whether 13 they had it at all? 14 A Directed it to be done. 15 Q But you agree with me that under the 16 general orders that you promulgated, you had the 17 ultimate responsibility at the end of the road for 18 the training of your officers? 19 A Yes. 20 MR. PLUNKERT: Object to the form and 21 foundation. 22 BY MR. JOHNSON: 23 Q Was there any, first of all, any general 24 order that you promulgated at Ferguson on in-custody 25 deaths?</p>	<p style="text-align: right;">103</p> <p>1 progressive discipline at Ferguson? 2 A Yes. 3 Q And if discipline was necessary, was there 4 a chain of command in terms of who handed out the 5 discipline for a patrol officer? 6 A Yes. 7 Q And what was the chain of command when it 8 came to the discipline of a patrol officer in terms 9 of who was to mete out the discipline first? 10 A In minor offenses it would often be the 11 first-line supervisor, and that would be usually in 12 the form of an oral reprimand or admonishment. 13 (Deposition Exhibit Number 5 14 marked for identification.) 15 BY MR. JOHNSON: 16 Q I'm going to hand you Exhibit 5, sir, and 17 ask if you can identify this general order for me, 18 Mr. Jackson. 19 A Progressive Discipline and Counseling, 20 General Order 303.0, July 6, 2010. 21 Q Again, early in your tenure at Ferguson? 22 A Yes. 23 Q Did you see progressive discipline and 24 counseling as a priority when you started as chief? 25 A Yes. As I -- I'm sorry.</p>
<p style="text-align: right;">102</p> <p>1 A I don't remember specifically. 2 Q Any trainings that you directed on 3 in-custody deaths? 4 A I don't remember any specifically. 5 Q Whether that in-custody death is as the 6 result of a firearm, a ECW, or any other use of 7 force? 8 A Well, there were procedures to be 9 followed, you know, after such an incident. 10 Q Procedures to be followed after the death 11 of a suspect? 12 A Yes. 13 Q And we'll get to those. 14 A Okay. 15 Q That would be notification of the kin, 16 et cetera? 17 A Yes. 18 Q I gotcha. Were you the -- as chief 19 executive officer of the Ferguson Police Department, 20 ultimately responsible for any discipline and 21 counseling of your police officers? 22 A Yes. 23 Q And when it came to the discipline and 24 counseling for somebody who had been alleged to have 25 engaged in some inappropriate conduct, was there</p>	<p style="text-align: right;">104</p> <p>1 Q Why? 2 A As I stated earlier, taking over as chief, 3 there were -- I prioritized certain functions within 4 the department and felt that complaint practices and 5 subsequent discipline was important and a priority. 6 Q They go hand in hand? 7 A They do. 8 Q And minor violations and major violations 9 are set forth in Exhibit 5, true? 10 A That's true. 11 Q And there is a progressive chain of 12 discipline that's set forth for minor violations on 13 page 2 of Exhibit 5, true? 14 A Yes. 15 Q Is the first page of Exhibit 5, the minor 16 violations, is that an exhaustive list of minor 17 violations, or are there other minor violations that 18 can lead to some form of discipline? 19 A That is not an exhaustive list; there 20 could be others. 21 Q What do you consider to be clerical 22 errors? 23 A Putting the wrong ordinance number on a 24 traffic violation. 25 Q Things of that nature?</p>

<p style="text-align: right;">105</p> <p>1 A I'm blank.</p> <p>2 Q That's okay. How about an inaccurate</p> <p>3 reporting on the use of force? Is that clerical in</p> <p>4 your mind?</p> <p>5 A If it was an unintentional inaccuracy,</p> <p>6 then yes.</p> <p>7 Q You draw that distinction, intentional</p> <p>8 versus unintentional?</p> <p>9 A If it's something that could be corrected</p> <p>10 with --</p> <p>11 Q Go ahead, sir.</p> <p>12 A If the error is something that could be</p> <p>13 corrected with a pen stroke, then it's a clerical</p> <p>14 error. If it's an intentional misrepresentation,</p> <p>15 then it would be otherwise.</p> <p>16 Q Do you consider clerical errors that are</p> <p>17 made that are unintentional, do you expect that the</p> <p>18 officer will correct that clerical error?</p> <p>19 MR. PLUNKERT: It calls for speculation.</p> <p>20 You may answer.</p> <p>21 A It would be my intention that if the</p> <p>22 officer didn't catch it that the supervisor would</p> <p>23 and direct it to be corrected.</p> <p>24 BY MR. JOHNSON:</p> <p>25 Q Because you have police report procedures</p>	<p style="text-align: right;">107</p> <p>1 opposed to a correction.</p> <p>2 Q And that could be something on the</p> <p>3 continuum of discipline --</p> <p>4 A Yes.</p> <p>5 Q -- from verbal all the way up to</p> <p>6 termination?</p> <p>7 A Yes.</p> <p>8 Q If it was bad enough, correct?</p> <p>9 A It could be.</p> <p>10 Q Is the supervisor the first line of review</p> <p>11 of an officer report?</p> <p>12 A Yes.</p> <p>13 Q And that supervisor, if that officer is on</p> <p>14 a patrol division, is that a shift supervisor who is</p> <p>15 the first line of review of an officer report?</p> <p>16 A Yes.</p> <p>17 Q And is there more or additional review</p> <p>18 beyond the supervisor of a patrol officer's report,</p> <p>19 offense report?</p> <p>20 A It would depend on the report, but in</p> <p>21 general circumstances, no.</p> <p>22 Q It generally stops at the supervisor?</p> <p>23 A Yes.</p> <p>24 Q Generally?</p> <p>25 A Generally, but also the commanders will</p>
<p style="text-align: right;">106</p> <p>1 within your department when you were chief, correct?</p> <p>2 A Yes.</p> <p>3 Q And you want, consistent with those police</p> <p>4 report procedures for your officers and/or their</p> <p>5 supervisors who are reviewing those reports, to be</p> <p>6 truthful and accurate in the reporting of a</p> <p>7 situation?</p> <p>8 A Yes.</p> <p>9 Q And if an unintentional clerical error is</p> <p>10 caught, whether it be by the officer or the</p> <p>11 supervisor, you would expect that that error would</p> <p>12 be remedied?</p> <p>13 A Yes.</p> <p>14 MR. PLUNKERT: Same objection.</p> <p>15 BY MR. JOHNSON:</p> <p>16 Q If it's not, does that transform a minor</p> <p>17 violation into some other violation, a clerical</p> <p>18 error that's not -- an unintentional clerical error</p> <p>19 that is not remedied?</p> <p>20 A If it's not caught at any point, then I</p> <p>21 guess we wouldn't know about it.</p> <p>22 Q Well, you have a -- what is --</p> <p>23 A If it's -- if it's caught and not</p> <p>24 corrected, then it would still probably be a minor</p> <p>25 violation, but there would be discipline involved as</p>	<p style="text-align: right;">108</p> <p>1 spot check and review those reports.</p> <p>2 Q Because is that the next in the chain of</p> <p>3 command --</p> <p>4 A Yes.</p> <p>5 Q -- would be officer, shift supervisor,</p> <p>6 commander?</p> <p>7 A Yes.</p> <p>8 Q And as I understand, in your police report</p> <p>9 procedures general order an officer generally is</p> <p>10 required to submit a completed report to their</p> <p>11 supervisor for approval prior to the termination of</p> <p>12 their tour of duty or shift?</p> <p>13 A Generally, yes.</p> <p>14 Q Obviously there can be exigent</p> <p>15 circumstances that cause a change in that</p> <p>16 expectation, but if there are exigent circumstances,</p> <p>17 is there kind of a date certain that that report</p> <p>18 needs to be turned in for review?</p> <p>19 A That would be as soon as possible.</p> <p>20 Q And is it the supervisor's responsibility</p> <p>21 to make sure that reports are submitted in a timely</p> <p>22 manner?</p> <p>23 A Yes, it is.</p> <p>24 Q And with all applicable attachments or</p> <p>25 enclosures?</p>

<p style="text-align: right;">109</p> <p>1 A Yes.</p> <p>2 Q And a written police report is required</p> <p>3 when an individual violates the law, correct?</p> <p>4 A Yes.</p> <p>5 Q When there is a use of force involved?</p> <p>6 A Yes.</p> <p>7 Q And any situation which may result in</p> <p>8 civil action or a complaint against the department,</p> <p>9 true?</p> <p>10 A True.</p> <p>11 Q Specific to use of force, there are</p> <p>12 additional forms beyond the report itself that are</p> <p>13 required, is that correct, sir?</p> <p>14 A That's correct.</p> <p>15 Q And that was also correct as of</p> <p>16 September of 2011, true?</p> <p>17 A Yes.</p> <p>18 Q And are there even more or other forms</p> <p>19 that are required if the use of force involves the</p> <p>20 use of a Taser ECW?</p> <p>21 A Yes.</p> <p>22 Q And whether it be a use of force not</p> <p>23 involving a Taser or a use of force involving a</p> <p>24 Taser, is the expectation the same that the</p> <p>25 supervisor is the first line of review of those</p>	<p style="text-align: right;">111</p> <p>1 as chief?</p> <p>2 A No.</p> <p>3 Q When it came to discipline and you</p> <p>4 received a complaint that you considered to be in</p> <p>5 your IA file, did you go to Mr. Shaw at all in</p> <p>6 reviewing the merits of the complaint?</p> <p>7 A Yes. There were times when I discussed</p> <p>8 with him the severity of the discipline. Usually</p> <p>9 that would involve suspension or termination.</p> <p>10 Q Did that ever occur, where you conferred</p> <p>11 with Mr. Shaw and it then resulted in a termination?</p> <p>12 A Yes.</p> <p>13 Q What was the officer involved or officers?</p> <p>14 A There were more than one occasion. One</p> <p>15 was Sergeant Norwood and another one involved a</p> <p>16 couple of officers.</p> <p>17 Q Let's start with Mr. Norwood. What was</p> <p>18 the complaint against him?</p> <p>19 MR. PLUNKERT: Let me object at this</p> <p>20 point. In discovery we've -- we've objected to</p> <p>21 complaints regarding -- not regarding excessive</p> <p>22 force or not regarding the allegations in this</p> <p>23 case; it's not reasonably calculated to lead to</p> <p>24 discovery of admissible evidence.</p> <p>25 You know, the complaints that I believe we</p>
<p style="text-align: right;">110</p> <p>1 reports?</p> <p>2 A Yes.</p> <p>3 Q Do you factually know who Mr. Kaminski's</p> <p>4 supervisor was the morning hours of September 17th,</p> <p>5 2011?</p> <p>6 A No, I don't.</p> <p>7 Q Would that normally be a sergeant?</p> <p>8 A Either the sergeant or the lieutenant.</p> <p>9 Q It's a weekend, so ...</p> <p>10 A Yeah, sergeant.</p> <p>11 Q Yeah. Definitely not a commander. I</p> <p>12 gotcha. Lieutenant Ballard is actually identified</p> <p>13 in this case.</p> <p>14 Is it unusual that Lieutenant Ballard</p> <p>15 could be working as shift supervisor for the patrol</p> <p>16 division?</p> <p>17 A Not unusual.</p> <p>18 MR. PLUNKERT: Object to the form, but ...</p> <p>19 BY MR. JOHNSON:</p> <p>20 Q Are you the sole person who decides</p> <p>21 whether a complaint of misconduct from a citizen is</p> <p>22 warranted or not warranted?</p> <p>23 A I wouldn't say sole, but in general, yes.</p> <p>24 You know, the city manager could -- could intervene.</p> <p>25 Q Has that ever happened during your tenure</p>	<p style="text-align: right;">112</p> <p>1 went into and to produce were subject to that</p> <p>2 objection. And right now we're trying to go</p> <p>3 into an area that we have objected to, so I'm</p> <p>4 wondering if this is reasonably calculated to</p> <p>5 discovery or if this is a method to bypass the</p> <p>6 previous objections to discovery.</p> <p>7 MR. JOHNSON: Well, I think that this</p> <p>8 could be remedied down the road. I'm not doing</p> <p>9 this to harass you. And if it's limited in</p> <p>10 facts and circumstances, I'm not here to</p> <p>11 embarrass anybody, including the person who was</p> <p>12 terminated.</p> <p>13 What I am interested in knowing, though,</p> <p>14 is general -- very general facts and</p> <p>15 circumstances as to why the decision was made</p> <p>16 to terminate certain members of the department.</p> <p>17 MR. DOWD: And then we'll agree further</p> <p>18 that it's subject to the protective order that</p> <p>19 has been entered.</p> <p>20 MR. JOHNSON: Protective order that's been</p> <p>21 entered, as well as we'll agree that you don't</p> <p>22 have to have a continuing objection to these</p> <p>23 and they can be addressed through a motion</p> <p>24 filed with the court at a later date.</p> <p>25 MR. PLUNKERT: Sure. The proceedings at</p>

<p style="text-align: right;">113</p> <p>1 this point for these individuals to be pursuant</p> <p>2 to the protective order is a good way to handle</p> <p>3 it and also to ask them generally so that we</p> <p>4 don't delve into things that -- that are</p> <p>5 established through questioning aren't related</p> <p>6 to the claims or at least the nature of the</p> <p>7 claims that are at issue here in this case. I</p> <p>8 think that's -- that's good.</p> <p>9 BY MR. JOHNSON:</p> <p>10 Q With those safeguards in place, why don't</p> <p>11 you walk me through, to your knowledge, the general</p> <p>12 facts and circumstances of the police department</p> <p>13 members that you terminated during your period as</p> <p>14 chief, the names and the reasons.</p> <p>15 A As I said, Sergeant Norwood was terminated</p> <p>16 following an incident at a school in town where his</p> <p>17 son, I believe, attended. Sergeant Norwood, I</p> <p>18 believe that his son was being bullied and went into</p> <p>19 the classroom in uniform and made threats against</p> <p>20 the alleged perpetrator.</p> <p>21 Q Understood. The other names, and you said</p> <p>22 there were other names, if you can recall the facts</p> <p>23 and circumstances, sir, please let me know.</p> <p>24 MR. PLUNKERT: And again, are you asking</p> <p>25 for generally, too?</p>	<p style="text-align: right;">115</p> <p>1 the police department related to the use of force?</p> <p>2 A Use of force, no, I don't think so. I</p> <p>3 don't remember any specific example.</p> <p>4 Q Any form of discipline where you had to be</p> <p>5 involved as chief --</p> <p>6 A Yes.</p> <p>7 Q -- against any individual related to the</p> <p>8 use of force?</p> <p>9 A The use of physical force, no, I don't</p> <p>10 remember any of those.</p> <p>11 Q How about the use of Taser ECW? Any</p> <p>12 discipline that you had to be involved with that</p> <p>13 relates to an officer in the use of a Taser device?</p> <p>14 A None that I can remember.</p> <p>15 Q And to be fair, would any complaints about</p> <p>16 officers and any claimed inappropriate use of force</p> <p>17 be contained in the IA log you told me about</p> <p>18 earlier?</p> <p>19 A Yes.</p> <p>20 Q They may also be verbal and just not got</p> <p>21 to you, is that fair as well --</p> <p>22 A That's --</p> <p>23 Q -- as you said earlier?</p> <p>24 A Yes.</p> <p>25 Q Easiest way to say it, Mr. Jackson, would</p>
<p style="text-align: right;">114</p> <p>1 MR. JOHNSON: Yep.</p> <p>2 A Yeah. I can't remember their names. You</p> <p>3 know, on the tip of my tongue I can see them</p> <p>4 standing in front of me. But they pulled a prank on</p> <p>5 an officer who had a take-home car. They took the</p> <p>6 car, moved it and parked it in the city park.</p> <p>7 BY MR. JOHNSON:</p> <p>8 Q And did that lead to a termination of more</p> <p>9 than one individual --</p> <p>10 A Yes.</p> <p>11 Q -- as far as there was more than one</p> <p>12 individual involved?</p> <p>13 A Yes.</p> <p>14 Q Any others, sir?</p> <p>15 A I terminated a jail employee for, among</p> <p>16 other things, letting a -- letting a prisoner out</p> <p>17 when I think the city was supposed to be coming and</p> <p>18 picking that prisoner up.</p> <p>19 Q Any communications division terminations?</p> <p>20 A Pardon me?</p> <p>21 Q Any communications divisions --</p> <p>22 A Yes.</p> <p>23 Q -- terminations?</p> <p>24 A Yes. General for a drug-related offense.</p> <p>25 Q Any suspensions of any individual within</p>	<p style="text-align: right;">116</p> <p>1 be, any complaints that I know about and was</p> <p>2 involved with, I logged in the files I maintain that</p> <p>3 I call the IA log, is that correct?</p> <p>4 A Yes.</p> <p>5 Q Okay. When you received a complaint from</p> <p>6 a citizen about the conduct of an officer and you</p> <p>7 were asked to weigh only the complaint of the</p> <p>8 citizen versus the word of the officer in</p> <p>9 determining whether that was substantiated, did you</p> <p>10 always give the benefit of the doubt to the officer?</p> <p>11 MR. PLUNKERT: Object to form and</p> <p>12 foundation.</p> <p>13 BY MR. JOHNSON:</p> <p>14 Q Go ahead.</p> <p>15 MR. PLUNKERT: You may answer.</p> <p>16 A Absent any other factors, you know, if we</p> <p>17 couldn't prove an allegation, then it could be one</p> <p>18 of those categories where it's just not sustained,</p> <p>19 but it wouldn't necessarily be unfounded.</p> <p>20 BY MR. JOHNSON:</p> <p>21 Q What information is given to the citizen</p> <p>22 who complains about the outcome of your</p> <p>23 investigation?</p> <p>24 A Generally I would send them a letter.</p> <p>25 When I had addresses for them, I'd send them a</p>

<p style="text-align: right;">117</p> <p>1 letter stating what the outcome was. 2 Q Do you maintain copies of the letters you 3 sent to the citizens who complained that you were 4 able to provide an outcome to? 5 A I did. 6 Q And were those also kept in the IA log? 7 A No. They were just kept in my Word 8 documents. 9 Q Just on your -- 10 A Oh, there was a copy of them. There 11 wouldn't necessarily be a copy in the investigative 12 logs. But I just send it to my administrative 13 assistant, and she would fill out the letter and the 14 envelope, I'd sign it and then they'd send it off. 15 Q Did you save on your computer all of the 16 letters you sent to the citizens responding to their 17 complaints? 18 A I don't know that I saved them all. Some 19 of them I wrote over. 20 Q Okay. 21 A But there were quite a few of them in 22 there. 23 (Deposition Exhibit Number 6 24 marked for identification.) 25</p>	<p style="text-align: right;">119</p> <p>1 Ferguson utilized other than Exhibit 5 in the event 2 an officer violated a standard of conduct set forth 3 in Exhibit 6? 4 MR. PLUNKERT: Object to form. 5 A So there's also a personnel manual, and 6 I -- one of the early general orders that I put out 7 stated that if there was any conflict between a 8 general order and a personnel manual, that that 9 would have to be addressed. But in general, the -- 10 if there was discipline to be meted out, it would be 11 in accordance with 303. 12 BY MR. JOHNSON: 13 Q And are these standards to ensure, at 14 least in part -- let me point to the one I care 15 about. Number 38, page 6, this is reporting again, 16 sir. Do you see that, Reporting? 17 A Okay. 18 Q "Reports be truthful and complete," true? 19 A Yes. 20 Q "Personnel will not normally enter or 21 cause to be entered any inaccurate, false, or 22 improper information," correct? 23 A Correct. 24 Q That's to ensure that officers provide 25 honest, truthful information in their reports,</p>
<p style="text-align: right;">118</p> <p>1 BY MR. JOHNSON: 2 Q I'm going to hand you Exhibit 6, and I 3 think this is somewhat similar with what we've been 4 asking about, but I'm going to jump around a little 5 bit on a couple of these. 6 What is Exhibit 6, Mr. Jackson? 7 A General Order 304.0, January 24th, 2011, 8 Standards of Conduct. 9 Q These are standards of conduct for both 10 sworn and nonsworn department employees, correct? 11 A Yes. 12 Q Starting January 24th, 2011, under your 13 watch and extending all the way through March of 14 2015, when you resigned? 15 A Yes. 16 Q And would these be applicable to patrol 17 officers working for the City of Ferguson Police 18 Department? 19 A Yes, they would. 20 Q Is the discipline policy we just looked at 21 in Exhibit 5, is that the policy that would exist in 22 the event an officer violates one of these 23 standards? 24 A Generally, yes. 25 Q Is there any other discipline policy that</p>	<p style="text-align: right;">120</p> <p>1 correct? 2 A Yes, it is. 3 Q And is that also to ensure that they 4 provide honest and truthful testimony if they're 5 asked questions under oath? 6 A Yes. 7 Q Next I'm going to mark Exhibit 7 and ask 8 if you could please identify this general order for 9 me, Mr. Jackson. 10 (Deposition Exhibit Number 7 11 marked for identification.) 12 A It's titled "Personnel Responsibilities, 13 General Order 111.0." 14 BY MR. JOHNSON: 15 Q Are these job descriptions, essentially, 16 for the different people that work at the Ferguson 17 Police Department? 18 A Yes, in general. 19 Q So the standards that we see in Exhibit 6, 20 are they applicable to all different jobs within the 21 Ferguson Police Department, meaning both sworn and 22 nonsworn personnel? 23 MR. PLUNKERT: Object to form. 24 A The question is -- 25</p>

<p style="text-align: right;">121</p> <p>1 BY MR. JOHNSON:</p> <p>2 Q Let me ask a better question.</p> <p>3 We see 18 different job descriptions in</p> <p>4 Exhibit 7, okay, at the top.</p> <p>5 Are the standards of conduct found in</p> <p>6 Exhibit 6 applicable to all 18 job descriptions in</p> <p>7 Exhibit 7?</p> <p>8 A Yes, if they were working for the police</p> <p>9 department.</p> <p>10 Q And are the goals and objectives -- strike</p> <p>11 that. Is the mission statement that we went through</p> <p>12 in Exhibit 1 applicable to all 18 job descriptions</p> <p>13 we see in Exhibit 7?</p> <p>14 MR. PLUNKERT: Object to form.</p> <p>15 A Yes.</p> <p>16 BY MR. JOHNSON:</p> <p>17 Q Do any of the policies that we've looked</p> <p>18 at so far, do they apply to all different types of</p> <p>19 people that Ferguson Police Department officers</p> <p>20 would encounter on the street?</p> <p>21 MR. PLUNKERT: Object to form.</p> <p>22 BY MR. JOHNSON:</p> <p>23 Q Both mentally healthy and mentally</p> <p>24 unhealthy?</p> <p>25 MR. PLUNKERT: Object to form.</p>	<p style="text-align: right;">123</p> <p>1 internationally accepted standards, specifically</p> <p>2 CALEA.</p> <p>3 Q Did you refer to the -- your time at the</p> <p>4 county and their CIT program in formulating that</p> <p>5 policy?</p> <p>6 A That informed the policy, but the policy</p> <p>7 was -- as with all the policies, were designed to</p> <p>8 meet the highest standards.</p> <p>9 Q Best practices?</p> <p>10 A Yes.</p> <p>11 Q Did you strive for best practices in the</p> <p>12 formulation of all the general orders that you</p> <p>13 signed off on?</p> <p>14 A Yes.</p> <p>15 Q Once you signed off on a general order,</p> <p>16 whenever that date is, and I know we've looked at</p> <p>17 different dates, was there a time where you went</p> <p>18 back and revised that policy before you resigned?</p> <p>19 A Yes.</p> <p>20 Q Was that common?</p> <p>21 A It wasn't uncommon.</p> <p>22 Q When you would have to revise the policy,</p> <p>23 what were the factors or variables that went into</p> <p>24 the revision of a general order after you had</p> <p>25 drafted the first general order?</p>
<p style="text-align: right;">122</p> <p>1 A Yes.</p> <p>2 BY MR. JOHNSON:</p> <p>3 Q Was there ever a time where you had</p> <p>4 discussions about promulgating policy for patrol</p> <p>5 officers encountering people who may be mentally</p> <p>6 unstable?</p> <p>7 A I believe there's a general order for it.</p> <p>8 Q And what is the general order, sir? What</p> <p>9 is the title of it?</p> <p>10 A I don't remember.</p> <p>11 Q What is the substance of it? If you</p> <p>12 recall.</p> <p>13 A Procedure to be followed when dealing with</p> <p>14 mentally unstable personnel.</p> <p>15 Q And you drafted that?</p> <p>16 A I need to take a look at it. I've been</p> <p>17 away from these for a while.</p> <p>18 Q I can't give you that lifeline yet.</p> <p>19 Did you sign it similar to the other ones</p> <p>20 we've seen?</p> <p>21 A If it's a general order that was</p> <p>22 promulgated post-2010, then yes.</p> <p>23 Q Tell me about the formulation of that</p> <p>24 policy, how it came to be.</p> <p>25 A It would be designed off of</p>	<p style="text-align: right;">124</p> <p>1 A For example, when we went from rotating</p> <p>2 backward eight-hour shifts to, say, 12-hour shifts,</p> <p>3 those general orders would need to be revised. We</p> <p>4 also stopped using the REJIS criminal justice system</p> <p>5 and switched over to MULES. We switched to a</p> <p>6 different CAD, computer-aided dispatching service,</p> <p>7 so any time those things were referenced in a</p> <p>8 general order, we would need to go back and change</p> <p>9 that reference.</p> <p>10 Q Did you have the ability to modify</p> <p>11 discipline that a supervisor would have handed out?</p> <p>12 A Well, supervisors would not mete out</p> <p>13 discipline.</p> <p>14 Q Let's say a supervisor verbally</p> <p>15 disciplined a subordinate. Do you as chief have the</p> <p>16 ability to modify that discipline to some other form</p> <p>17 of discipline?</p> <p>18 A Yes.</p> <p>19 Q Have you had to do that in the past?</p> <p>20 A I -- I have, yes.</p> <p>21 Q Did you have final authority to exonerate</p> <p>22 police officers from a complaint of misconduct?</p> <p>23 A Yes.</p> <p>24 Q Did you draft a document retention policy</p> <p>25 at Ferguson?</p>

<p style="text-align: right;">125</p> <p>1 A Yes.</p> <p>2 Q Was that something that was lacking before</p> <p>3 you arrived as chief?</p> <p>4 A I don't remember.</p> <p>5 MR. PLUNKERT: It calls for speculation.</p> <p>6 Go ahead. I'm sorry.</p> <p>7 A I don't remember.</p> <p>8 BY MR. JOHNSON:</p> <p>9 Q Do you have a memory as to whether or not</p> <p>10 you created for the first time, to your knowledge, a</p> <p>11 document retention policy at the Ferguson Police</p> <p>12 Department?</p> <p>13 A Again, I don't remember seeing one.</p> <p>14 Q Is the only statistical information</p> <p>15 regarding allegations of police officer misconduct</p> <p>16 the IA log that you just told me about --</p> <p>17 A Yes.</p> <p>18 Q -- and the summary you presented to the</p> <p>19 city manager?</p> <p>20 A Yes.</p> <p>21 Q And so any statistical data we would see</p> <p>22 of officer misconduct would be found in the log and</p> <p>23 the summary?</p> <p>24 MR. PLUNKERT: Object to the form.</p> <p>25 A Yes.</p>	<p style="text-align: right;">127</p> <p>1 Q And were all the summaries there when you</p> <p>2 left --</p> <p>3 A The --</p> <p>4 Q -- of the IA logs that you would have</p> <p>5 presented to Mr. Shaw?</p> <p>6 A I don't know.</p> <p>7 Q Did you maintain the summaries with the</p> <p>8 logs themselves?</p> <p>9 A No.</p> <p>10 Q Just the raw data?</p> <p>11 A Yes.</p> <p>12 Q Did you draft a summary on your computer</p> <p>13 similar to letters you told me about?</p> <p>14 A No. That's why my administrative</p> <p>15 assistant would ask me for the data, and then she</p> <p>16 would create the summary.</p> <p>17 Q And who was that?</p> <p>18 A Mary Simmons.</p> <p>19 Q And is Ms. Simmons still with the</p> <p>20 department?</p> <p>21 A Yes.</p> <p>22 Q She's the current chief's administrative</p> <p>23 assistant?</p> <p>24 A Yes.</p> <p>25 Q So did you rely on Ms. Simmons to</p>
<p style="text-align: right;">126</p> <p>1 BY MR. JOHNSON:</p> <p>2 Q Were any -- any statistical data on</p> <p>3 employee -- employee misconduct destroyed pursuant</p> <p>4 to a document retention policy?</p> <p>5 MR. PLUNKERT: Object to the form.</p> <p>6 BY MR. JOHNSON:</p> <p>7 Q That you know of.</p> <p>8 A Not that I know of.</p> <p>9 Q What, when it comes to the IA log, is your</p> <p>10 understanding of the document retention policy?</p> <p>11 A I'd need to see the -- the document at</p> <p>12 this point.</p> <p>13 Q The retention?</p> <p>14 A Yeah.</p> <p>15 Q Okay. Do you know whether any of the</p> <p>16 employee misconduct claims that form the basis of</p> <p>17 the IA log, were they destroyed pursuant to some</p> <p>18 document retention policy during your time as police</p> <p>19 chief?</p> <p>20 A Not that I'm aware of.</p> <p>21 Q Because you're the one that maintains</p> <p>22 them?</p> <p>23 A Right.</p> <p>24 Q Were they all there when you left?</p> <p>25 A Yes, they were.</p>	<p style="text-align: right;">128</p> <p>1 characterize a complaint as a -- to fall in a</p> <p>2 certain category?</p> <p>3 A No.</p> <p>4 Q But she would draft the summary?</p> <p>5 A Based on the information that I gave her,</p> <p>6 she just -- I gave it to her verbally, she did it in</p> <p>7 her computer, and ...</p> <p>8 Q So just so I understand the process, did</p> <p>9 you take all of these complaints and give them to</p> <p>10 Ms. Simmons, or did you just verbally tell her?</p> <p>11 A I verbally told her.</p> <p>12 Q What did you verbally tell her?</p> <p>13 A For example, she would come in; it was</p> <p>14 time for her to do the summary. She would come in</p> <p>15 and say, "I need the complaint numbers for the past</p> <p>16 year." I'd pull them up on my computer and say that</p> <p>17 we had so many complaints against so many officers</p> <p>18 and these were the results.</p> <p>19 Q But not the nature of the complaints?</p> <p>20 A No.</p> <p>21 Q So Mr. Shaw never knew the nature of the</p> <p>22 complaints against your officers?</p> <p>23 MR. PLUNKERT: Objection. Lacks</p> <p>24 foundation. You can answer.</p> <p>25</p>

<p style="text-align: right;">129</p> <p>1 BY MR. JOHNSON:</p> <p>2 Q You never told Mr. Shaw through the</p> <p>3 summary the nature of any of the complaints against</p> <p>4 your officers?</p> <p>5 A Not through the summary, no.</p> <p>6 Q Right. He may have known otherwise?</p> <p>7 A Yes.</p> <p>8 Q But when it came only to the summary, that</p> <p>9 was not told to him, the nature of the complaints?</p> <p>10 A No.</p> <p>11 Q Did he ever come to you and ask for the</p> <p>12 nature of the complaints that he was seeing?</p> <p>13 A I'm pretty sure that I told him about</p> <p>14 every written complaint that we got.</p> <p>15 Q But you had final authority to discipline</p> <p>16 those officers, correct?</p> <p>17 A I -- I say that. But if he had -- he</p> <p>18 would have had the authority if he felt -- if he had</p> <p>19 knowledge of a complaint and felt it needed to be</p> <p>20 more severe, then --</p> <p>21 Q Did he ever exercise that authority?</p> <p>22 A I think we always discussed those cases</p> <p>23 and came to an agreement.</p> <p>24 Q What do you mean by "those cases"?</p> <p>25 A Any case where he would have an opinion on</p>	<p style="text-align: right;">131</p> <p>1 A Yes.</p> <p>2 Q Did you see use of lethal and less lethal</p> <p>3 weapons and use of force as a priority when you</p> <p>4 first started?</p> <p>5 A Yes.</p> <p>6 Q Why?</p> <p>7 A It's a specific and unique authority and</p> <p>8 responsibility that's given to police officers to</p> <p>9 use force on citizens, and throughout my career it's</p> <p>10 been important to me that that has been used</p> <p>11 responsibly and kept in check.</p> <p>12 Q Because the Ferguson Department recognize</p> <p>13 and respects the value and integrity of human life?</p> <p>14</p> <p>15 A Correct.</p> <p>16 MR. PLUNKERT: Objection to the form of</p> <p>17 that question.</p> <p>18 BY MR. JOHNSON:</p> <p>19 Q I'll just read it.</p> <p>20 Doesn't the policy say, "The Department</p> <p>21 recognizes and respects the value and special</p> <p>22 integrity of each human life"?</p> <p>23 A Yes, it does.</p> <p>24 Q And did you have that same value and</p> <p>25 respect when you worked at the county?</p>
<p style="text-align: right;">130</p> <p>1 discipline.</p> <p>2 Q Well, when did he get involved? Was there</p> <p>3 some severity or numerosity that he got involved in?</p> <p>4 I mean, he wasn't involved in each and</p> <p>5 every complaint, was he?</p> <p>6 A No.</p> <p>7 Q So the ones that you remember,</p> <p>8 Mr. Jackson -- I'm sorry, I didn't mean to cut you</p> <p>9 off.</p> <p>10 The ones that you remember, do you</p> <p>11 remember anything that stand out in your mind as to</p> <p>12 where Mr. Shaw intervened in reviewing the</p> <p>13 complaint?</p> <p>14 A Nothing in particular, no.</p> <p>15 (Deposition Exhibit Number 8</p> <p>16 marked for identification.)</p> <p>17 BY MR. JOHNSON:</p> <p>18 Q Let's talk about use of force, primarily</p> <p>19 why we're here. I'm going to give you Exhibit 8,</p> <p>20 ask you to please identify that for me.</p> <p>21 A "Use of Lethal and Less Lethal Weapons,</p> <p>22 Use of Force Continuum, General Order 410.0."</p> <p>23 Q Dated July 6, 2010?</p> <p>24 A Correct.</p> <p>25 Q Again, early in your tenure?</p>	<p style="text-align: right;">132</p> <p>1 A Yes.</p> <p>2 Q The use-of-force policy, Exhibit 8,</p> <p>3 contains definitions on page 2, correct?</p> <p>4 A Correct.</p> <p>5 Q And were these definitions utilized as of</p> <p>6 September 2011, to your knowledge, by the Ferguson</p> <p>7 Police Department?</p> <p>8 A Yes.</p> <p>9 Q Does the policy also contain a subheader</p> <p>10 on less lethal force?</p> <p>11 A Yes.</p> <p>12 Q And what do you consider to be the use of</p> <p>13 less lethal force, Mr. Jackson?</p> <p>14 A In general, it's any type of weapon that</p> <p>15 could potentially cause death but is not designed to</p> <p>16 cause death.</p> <p>17 Q Is it your belief, when you promulgated</p> <p>18 Exhibit 8, that a less lethal weapon best</p> <p>19 deescalates an incident?</p> <p>20 MR. PLUNKERT: Object to the form and</p> <p>21 foundation.</p> <p>22 A I wouldn't use that as the definition. I</p> <p>23 would say that it's -- it's a tool that could</p> <p>24 prevent other types of force in a use-of-force</p> <p>25 scenario where the other types of force could cause</p>

<p style="text-align: right;">133</p> <p>1 severe injury. 2 BY MR. JOHNSON: 3 Q Can less lethal force be utilized, 4 different forms in conjunction with one another? 5 A Yes. 6 Q The weapons regulations for less lethal 7 force, obviously there are different forms of less 8 lethal force, correct? 9 A Yes. 10 Q In fact, there are examples on page 6 of 11 Exhibit 8, which include batons? 12 A Yes. 13 Q Chemical agents? 14 A Yes. 15 Q Aerosol irritants? 16 A Yes. 17 Q And the advanced Taser electric 18 incapacitation device? 19 A Yes. 20 Q IED for short, right? 21 A Yes. 22 Q Did you equip in September of 2011 your 23 patrol division with batons? 24 A Yes. 25 Q Did you equip them with chemical agents?</p>	<p style="text-align: right;">135</p> <p>1 Q -- right? 2 A Yes. 3 Q You didn't put any noncertified Taser 4 users out on the street, did you? 5 A No. 6 Q Did that ever happen, where an officer 7 used a Taser device not certified on it, to your 8 knowledge? 9 A Not to my knowledge, no. 10 Q Is the use of the Taser in -- in terms of 11 it being a less lethal weapon, as you say under your 12 policy, is the use of it based on the same criteria 13 as the batons, chemical agents, and aerosol 14 irritants? 15 A In general terms, it's -- it's the type of 16 weapon that would be used where it can replace 17 physical force, so it wouldn't necessarily be all 18 the same criteria as pepper spray, but ... 19 Q What variables do you consider to be 20 different in terms of the use of pepper Mace versus 21 the use of a Taser? 22 A Passive resistance. Someone is blocking 23 the roadway, refuses to move, rather than wrestling 24 with them, the pepper spray could be used, but not 25 necessarily other forms. You wouldn't use a</p>
<p style="text-align: right;">134</p> <p>1 A Yes. 2 Q Did you equip them with aerosol irritants? 3 A Yes. 4 Q Did you equip them with Taser -- 5 A Let me back up. 6 Q Go ahead. 7 A Chemical agents, you're referring to tear 8 gas, so no, if that's separate from the aerosol. 9 Q What do you consider to be a CS chemical 10 agent, sir? 11 A Tear gas that's deployed either through a 12 shotgun or canister. 13 Q And what do you consider to be an aerosol 14 irritant, Mr. Jackson? 15 A In general, a pepper Mace. 16 Q Was the Ferguson Police Department patrol 17 division officers equipped with tear gas rifle in 18 September of 2011? 19 A No. 20 Q Were they equipped with pepper Mace? 21 A Yes. 22 Q And were they equipped with the Taser ECW? 23 A Yes. 24 Q If they were certified -- 25 A Yes.</p>	<p style="text-align: right;">136</p> <p>1 nightstick on someone who is passive resistant. 2 Q You wouldn't use a Taser on somebody 3 that's passively resistant? 4 MR. PLUNKERT: Object to the form. 5 A No. 6 BY MR. JOHNSON: 7 Q That would be improper under your 8 use-of-force continuum? 9 A Yes. 10 MR. PLUNKERT: Object to form and 11 foundation. 12 BY MR. JOHNSON: 13 Q Correct? 14 A Correct. 15 Q The use of force -- the Resistance Control 16 Guidelines Use-of-Force Continuum starts on page 11 17 and goes on to page 12 of Exhibit 8, is that true, 18 sir? 19 A Yes, it is. 20 Q And is that a continuum that was drafted 21 by you? 22 A This is the -- specific answer to your 23 question is yes. This is widely accepted force 24 continuum. 25 Q And what source of information did you</p>

<p style="text-align: right;">137</p> <p>1 refer to in or around July of 2010 to utilize this</p> <p>2 continuum as the use-of-force continuum utilized by</p> <p>3 the Ferguson Police Department?</p> <p>4 A That would be the international standards,</p> <p>5 the state standards, and standards used by ICP --</p> <p>6 IACP. I'm sorry.</p> <p>7 Q Sir, did you go to any of the outside law</p> <p>8 enforcement agencies locally in the St. Louis</p> <p>9 metropolitan area to copy in whole or in part copy</p> <p>10 their use-of-force continuum?</p> <p>11 A We used as -- yes. We used as guidelines</p> <p>12 those standards that were already accepted under an</p> <p>13 international standards.</p> <p>14 Q And did this continuum change at any point</p> <p>15 between July 6, 2010 and September of 2011, sir?</p> <p>16 A Absent any revised standard, which I don't</p> <p>17 recall having done, then yes.</p> <p>18 Q Was it in effect as of the time you left</p> <p>19 your position at Ferguson?</p> <p>20 A Yes.</p> <p>21 Q And do you agree that the decision on what</p> <p>22 type of force to be utilized should be considered</p> <p>23 each time that officer utilizes force?</p> <p>24 MR. PLUNKERT: Object to form and</p> <p>25 foundation. You may answer.</p>	<p style="text-align: right;">139</p> <p>1 Taser is discharged it has to meet the requirements.</p> <p>2 MR. DOWD: I'm sorry, I didn't hear your</p> <p>3 answer.</p> <p>4 THE WITNESS: Yeah. Each time it has to</p> <p>5 meet the requirements to use a Taser.</p> <p>6 BY MR. JOHNSON:</p> <p>7 Q And where lethal force is not authorized,</p> <p>8 you agree that the officer should assess the</p> <p>9 incident in order to determine which nondeadly</p> <p>10 technique or less lethal weapon will best deescalate</p> <p>11 the incident and bring it under control in a safe</p> <p>12 manner, correct?</p> <p>13 A Correct.</p> <p>14 Q And would you agree before even less</p> <p>15 lethal force is used and you are dealing with a</p> <p>16 mentally unstable individual, that CIT protocols</p> <p>17 should be used to deescalate the situation even</p> <p>18 before the use of force?</p> <p>19 MR. PLUNKERT: Object to form and</p> <p>20 foundation.</p> <p>21 BY MR. JOHNSON:</p> <p>22 Q Go ahead, sir.</p> <p>23 A If available.</p> <p>24 Q And by "available," do you mean an officer</p> <p>25 who is CIT trained?</p>
<p style="text-align: right;">138</p> <p>1 A If I understand the question correctly,</p> <p>2 each case is individual.</p> <p>3 BY MR. JOHNSON:</p> <p>4 Q We'll start there. First of all, each</p> <p>5 case or each encounter is individual, correct?</p> <p>6 A Yes.</p> <p>7 Q But within the encounter itself, if a --</p> <p>8 if a form of force is used, should that officer then</p> <p>9 reflect on the circumstances then existing before</p> <p>10 exercising force again in some fashion?</p> <p>11 MR. PLUNKERT: Same objections.</p> <p>12 A Each time force is used the criteria have</p> <p>13 to be met, and of course it has to be reviewed</p> <p>14 afterwards.</p> <p>15 BY MR. JOHNSON:</p> <p>16 Q And each -- and this would apply to the</p> <p>17 use of a Taser device? Each time the Taser is</p> <p>18 discharged, should that officer review the</p> <p>19 circumstances then existing?</p> <p>20 MR. PLUNKERT: Same objection.</p> <p>21 A Talking heat-of-the-moment situation, so</p> <p>22 the officer --</p> <p>23 BY MR. JOHNSON:</p> <p>24 Q I'm talking discharge of the Taser.</p> <p>25 A Yeah, discharge of a Taser. Each time the</p>	<p style="text-align: right;">140</p> <p>1 A Yes. With the standards, yes.</p> <p>2 Q Do you expect, or was it the expectation</p> <p>3 of you as chief, that if you went to the time and</p> <p>4 expense of training an officer on CIT that they</p> <p>5 would implement it in the field?</p> <p>6 MR. PLUNKERT: It calls for speculation.</p> <p>7 You may answer.</p> <p>8 A That -- what we wanted to do was make</p> <p>9 every possible tool available to the officers.</p> <p>10 Ultimately, on scene, they have the discretion.</p> <p>11 BY MR. JOHNSON:</p> <p>12 Q Is the discretion whether to engage in CIT</p> <p>13 techniques at the scene unlimited discretion?</p> <p>14 MR. PLUNKERT: Object to form and</p> <p>15 foundation.</p> <p>16 A No. That was probably a bad choice of</p> <p>17 words, "discretion." The officer is going to have</p> <p>18 tools available to him and it's going to be up to</p> <p>19 him on the scene; he's going to be the one who</p> <p>20 decides which is the best tool under those</p> <p>21 circumstances.</p> <p>22 BY MR. JOHNSON:</p> <p>23 Q So if the officer is CIT trained, are they</p> <p>24 constrained in exercising their discretion whether</p> <p>25 to implement CIT techniques based on the training</p>

<p style="text-align: right;">141</p> <p>1 they did receive?</p> <p>2 MR. PLUNKERT: Same objections.</p> <p>3 BY MR. JOHNSON:</p> <p>4 Q It's a fancy way of me saying this: Do</p> <p>5 you expect that officer to implement his or her CIT</p> <p>6 training in the field if they encounter a mentally</p> <p>7 unstable individual where CIT may deescalate the</p> <p>8 situation?</p> <p>9 MR. PLUNKERT: Same objections.</p> <p>10 A If the circumstances allow it.</p> <p>11 BY MR. JOHNSON:</p> <p>12 Q And, again, similar to -- are you saying</p> <p>13 that similar to the totality of the circumstances in</p> <p>14 determining whether to utilize force, they should</p> <p>15 also look at the totality of the circumstances in</p> <p>16 determining whether to use CIT techniques?</p> <p>17 A I couldn't have said it better myself.</p> <p>18 Q I'll never be able to repeat that.</p> <p>19 A It's on tape.</p> <p>20 Q There, too.</p> <p>21 Does the totality of the circumstances</p> <p>22 surrounding the decision to utilize a Taser, does</p> <p>23 that take into account the suspect's mental state?</p> <p>24 A Yes.</p> <p>25 Q At some point, sir, did you learn that the</p>	<p style="text-align: right;">143</p> <p>1 equipment and training and things like that.</p> <p>2 Q Have you professionally in law</p> <p>3 enforcement, sir, had interaction with the Police</p> <p>4 Executive Research Forum?</p> <p>5 A Yes. I met with the president.</p> <p>6 Q In what ways?</p> <p>7 A I met with the president of PERF, Chuck</p> <p>8 Wexler.</p> <p>9 Q When was that?</p> <p>10 A Late last year.</p> <p>11 Q Was that related to the Michael Brown</p> <p>12 incident?</p> <p>13 A Generally, yeah.</p> <p>14 Q Okay. Did you have interaction with PERF</p> <p>15 before assuming your position as chief of police of</p> <p>16 Ferguson?</p> <p>17 A No.</p> <p>18 Q Did you have association with PERF for a</p> <p>19 professional reason between you assuming your duty</p> <p>20 as police chief and when the Michael Brown incident</p> <p>21 occurred in 2014?</p> <p>22 A No.</p> <p>23 Q But did you generally know what PERF was</p> <p>24 when you assumed your role as police chief of</p> <p>25 Ferguson?</p>
<p style="text-align: right;">142</p> <p>1 guidelines for the use of the Taser ECW were revised</p> <p>2 during your period of time as police chief?</p> <p>3 A I don't have any memory of that, no.</p> <p>4 Q Are you familiar with an organization</p> <p>5 called the Police Executive Research Forum, PERF?</p> <p>6 A Yes.</p> <p>7 Q What is that?</p> <p>8 A It's an organization of some form of</p> <p>9 police executives, current police executives and</p> <p>10 others, researchers, who do essentially scholarly</p> <p>11 papers on various topics involving police work.</p> <p>12 Q Are you familiar with an entity known as</p> <p>13 the Community Oriented Policing Services within the</p> <p>14 U.S. Department of Justice?</p> <p>15 A Yes.</p> <p>16 Q And what is that entity? What do they do?</p> <p>17 MR. PLUNKERT: Foundation.</p> <p>18 A They do --</p> <p>19 BY MR. JOHNSON:</p> <p>20 Q What do you understand they do?</p> <p>21 A They do a variety of different things, one</p> <p>22 of which is to provide training to police</p> <p>23 departments and others in police community</p> <p>24 relations, biased-based policing. They also provide</p> <p>25 grants, things like traffic enforcement and</p>	<p style="text-align: right;">144</p> <p>1 A Yes.</p> <p>2 Q Did you also generally know what the COPS</p> <p>3 division of the U.S. Department of Justice was</p> <p>4 before you assumed your position as police chief of</p> <p>5 Ferguson?</p> <p>6 A Yes.</p> <p>7 Q Okay. Is PERF or COPS, are those entities</p> <p>8 that provided some type of training to you as an</p> <p>9 officer?</p> <p>10 A I don't know that I got any specific PERF</p> <p>11 training. Generally, they provide articles,</p> <p>12 opinions, things like that. But through COPS, I</p> <p>13 think I took advantage of their grants from time to</p> <p>14 time.</p> <p>15 Q Certainly. Did you look to PERF in terms</p> <p>16 of drafting the general orders we went through today</p> <p>17 or any of your general orders?</p> <p>18 A I'm sure that I did. I used lots of</p> <p>19 sources, and PERF is ...</p> <p>20 Q Do you consider PERF to be authoritative</p> <p>21 in your field?</p> <p>22 A Authoritative?</p> <p>23 Q Yes. Is it some --</p> <p>24 A No. I would consider it --</p> <p>25 Q -- accepted --</p>

<p style="text-align: right;">145</p> <p>1 A -- to be advisory. 2 Q Advisory. 3 A Yeah. 4 Q That's a good word. 5 A Yeah. 6 Q The use-of-force policy we looked at in 7 Exhibit 8, do you recall what sources you went -- 8 looked to to formulate that policy or that general 9 order? 10 A Again, just a lot of sources, but -- you 11 know, a lot of it was my own training and experience 12 at St. Louis County and their general orders as well 13 as others that met international criteria. 14 Q And then I forgot to give you Exhibit 9. 15 That's the Taser order. I'll ask you some questions 16 about that, too. 17 A Okay. 18 (Deposition Exhibit Number 9 19 marked for identification.) 20 BY MR. JOHNSON: 21 Q Here you go, sir. What is Exhibit 9, 22 Mr. Jackson? 23 A Taser Electronic Incapacitation Device. 24 Q It's not dated. Do you know what date 25 this was a general order within your department?</p>	<p style="text-align: right;">147</p> <p>1 Tasers. 2 Q Would you have deployed Tasers in the 3 field without a general order? 4 A No. 5 Q And what sources of information did you 6 look to to create Exhibit 9? 7 A Again, the standards, the CALEA standards, 8 the international standards -- 9 Q How about any -- 10 A -- taser training. 11 Q Exactly. Anything directly from Taser 12 International, sir? 13 A Yes. I do know that John Brannon 14 contributed quite a bit to this. 15 Q Do you know if there was a specific 16 version of the Taser training manual that you looked 17 to in drafting Exhibit 9? 18 A No, I don't. 19 Q Do you know, based on your experience -- 20 background, training and experience in law 21 enforcement, that there are different versions of 22 Taser training manuals? 23 A I'm not aware of that. 24 Q So if I asked you if there was a specific 25 version of the Taser training manual that was</p>
<p style="text-align: right;">146</p> <p>1 A No, I don't. 2 Q Do you know if this general order was in 3 existence as of September 2011? 4 A Absent any revision, then it would have 5 been, yes. 6 Q How can you tell me that? I mean, I know 7 we see dates on some. I'm just -- 8 A Yeah. 9 Q Is there something that you can see in 10 Exhibit 9 that suggests to you that I -- I have an 11 idea when this was formulated and promulgated by me? 12 A I can't tell you what the date is. 13 Q Is there some resource that you utilized 14 within the City of Ferguson that would help you 15 better understand when Exhibit 9 may have been 16 signed by you? 17 A Well, it would have been prior to the 18 deployment of Taser, clearly, so prior to the 19 training. So I could ... 20 Q Let me ask it this way: Do you know if 21 you signed off on Exhibit 9 before you made the 22 decision to purchase the Tasers? 23 A I made that decision around the same time 24 as the decision -- I mean that signature, the -- 25 around the same time that we decided to purchase</p>	<p style="text-align: right;">148</p> <p>1 incorporated into Exhibit 9, you could not tell me 2 that? 3 A No, I couldn't. 4 Q Did Mr. Brannon actually draft Exhibit 9? 5 A I can't say with certainty, but my best 6 recollection is that he sent me the model for my 7 review and we compared it to, you know, the 8 standards that I previously stated. 9 Q Because you yourself, again, aren't 10 certified on the Taser? 11 A No. 12 Q It would be kind of a heavy burden for you 13 to write all the verbiage in Exhibit 9, not being 14 certified, true? 15 A True. 16 Q So you looked in part to Mr. Brannon to 17 help you because he was certified? 18 A Yes. 19 Q Any other department personnel who 20 assisted in Exhibit 9 other than possibly 21 Mr. Brannon? 22 A Not that I remember. 23 Q Do you know of any updates to Exhibit 9 24 that were made during your time working with the 25 Ferguson department?</p>

<p style="text-align: right;">149</p> <p>1 A No, I don't.</p> <p>2 Q And Exhibit 9 cross-references Exhibit 8</p> <p>3 on the second page, is that true, sir, General Order</p> <p>4 410.00?</p> <p>5 A Yes.</p> <p>6 Q Is the lower portion of the second page of</p> <p>7 Exhibit 9, when it comes to parts of the body to</p> <p>8 target, is that the only instruction Ferguson</p> <p>9 provided its officers on the use of the Taser?</p> <p>10 A I don't know if that was ever modified.</p> <p>11 Q Is a discharge of a Taser causing a probe</p> <p>12 to strike an individual's heart area contrary to</p> <p>13 this order?</p> <p>14 MR. PLUNKERT: Object. Foundation. You</p> <p>15 can answer.</p> <p>16 A I'm sorry, could you ...</p> <p>17 MR. JOHNSON: Could you repeat that?</p> <p>18 (Record read by the reporter as follows:</p> <p>19 "Q Is a discharge of a Taser causing a</p> <p>20 probe to strike an individual's heart area</p> <p>21 contrary to this order?")</p> <p>22 A When you say "heart area," just talking</p> <p>23 about the upper torso, right?</p> <p>24 BY MR. JOHNSON:</p> <p>25 Q Yes, sir.</p>	<p style="text-align: right;">151</p> <p>1 Q The discharge of a Taser device causing a</p> <p>2 probe to strike an individual's heart area, is that</p> <p>3 acceptable under Exhibit 9?</p> <p>4 MR. PLUNKERT: Same.</p> <p>5 BY MR. JOHNSON:</p> <p>6 Q Let me ask it a different way. Is it a</p> <p>7 violation of Exhibit 9?</p> <p>8 A It says in here, "The head, face, and</p> <p>9 heart area should not be specifically targeted</p> <p>10 unless the appropriate level of force can be</p> <p>11 justified."</p> <p>12 Q So it would be a violation?</p> <p>13 MR. PLUNKERT: Objection on foundation.</p> <p>14 You may answer. And form.</p> <p>15 A Yes. It would be inconsistent with the</p> <p>16 order.</p> <p>17 BY MR. JOHNSON:</p> <p>18 Q Do you use the word "inconsistent"</p> <p>19 synonymously with "violation"?</p> <p>20 A Well, if it's -- if it's intentional. A</p> <p>21 Taser is not a necessarily precise device,</p> <p>22 particularly when one or more people may be moving,</p> <p>23 but an intentional strike to that area would be a</p> <p>24 violation.</p> <p>25 Q Were there any other written general</p>
<p style="text-align: right;">150</p> <p>1 A I don't believe so.</p> <p>2 Q You believe it's consistent?</p> <p>3 A Yes.</p> <p>4 Q So it reads, "The head, face, and heart</p> <p>5 area should not be specifically targeted unless the</p> <p>6 appropriate level of force can be justified."</p> <p>7 Did I read that correctly?</p> <p>8 A Yes.</p> <p>9 Q So a discharge of a Taser probe causing --</p> <p>10 the discharge of a Taser device, causing a probe to</p> <p>11 strike an individual's heart area, is that</p> <p>12 consistent or not consistent with Exhibit 9?</p> <p>13 A It is consistent.</p> <p>14 Q It's accepted?</p> <p>15 A It's consistent.</p> <p>16 Q Okay. Is it acceptable --</p> <p>17 MR. PLUNKERT: Objection. Foun --</p> <p>18 BY MR. JOHNSON:</p> <p>19 Q -- under this order?</p> <p>20 MR. PLUNKERT: Objection on the grounds of</p> <p>21 foundation.</p> <p>22 BY MR. JOHNSON:</p> <p>23 Q Go ahead, sir. Is it acceptable under</p> <p>24 this order?</p> <p>25 A To ...</p>	<p style="text-align: right;">152</p> <p>1 orders or policies for the use of the Taser device</p> <p>2 used at Ferguson as of September 2011 other than</p> <p>3 Exhibit 9?</p> <p>4 A Just the ones referenced in Exhibit 9.</p> <p>5 410.</p> <p>6 Q Which would be the general use of force?</p> <p>7 A Yes.</p> <p>8 Q Anything else, sir?</p> <p>9 A There's a Taser Deployment Form that would</p> <p>10 be filled out.</p> <p>11 Q Okay. And I'm really asking more about</p> <p>12 rules.</p> <p>13 A Okay.</p> <p>14 Q Any other rules that your department used</p> <p>15 for the use of the Taser as of September 2011 other</p> <p>16 than Exhibits 8 and 9?</p> <p>17 A None that I can think of.</p> <p>18 Q Were there any policies in place that</p> <p>19 talked about a limitation on the number of cycles</p> <p>20 that a Taser could be used?</p> <p>21 A I'd have to review the general order again</p> <p>22 to -- to know that.</p> <p>23 Q Let's look at it.</p> <p>24 A Okay.</p> <p>25 Q And feel free to take a break and review</p>

<p style="text-align: right;">153</p> <p>1 this entire general order if you'd like to, sir, 2 because I'm going to ask you a series of questions 3 about it. 4 A All right. 5 Q My question, Mr. Jackson, is, is there 6 anything found in Exhibit 9 or other policies that 7 you're aware of utilized by Ferguson as of 8 September 2011 that discuss a limitation on the 9 number of cycles of the Taser device? 10 A No. 11 MR. PLUNKERT: Objection on the grounds of 12 the foundation. 13 BY MR. JOHNSON: 14 Q Same question for any policies on cuffing 15 under load. 16 MR. PLUNKERT: Same objection. 17 A No. 18 BY MR. JOHNSON: 19 Q Any policies you're aware of in Exhibit 9 20 or otherwise, as of September 2011, on using the 21 Taser on an emotionally or mentally unstable 22 individual? 23 MR. PLUNKERT: Same objection. 24 A No. 25</p>	<p style="text-align: right;">155</p> <p>1 Taser X26 on an individual beyond five seconds per 2 discharge? 3 A Yes. 4 Q And how was that relayed from Mr. Brannon 5 to a trainee that you observed? 6 A That was in his oral presentation. 7 Q That was a prohibition that he made? 8 A Yes. 9 Q And did he discuss with you in your 10 presence why you cannot activate a Taser device, a 11 discharge of that device on an individual beyond 12 five seconds? 13 A No, we didn't have specific discussion. 14 Q Did you have that understanding 15 independent of Mr. Brannon -- 16 A Yes. 17 Q -- yourself? What is your understanding 18 of why that discharge cannot last more than five 19 seconds per use? 20 A That was the rules. 21 Q Would it have any risk of serious injury 22 or death associated with it, that you know of? 23 A I would have to assume that, yeah. 24 Q Any policies or procedures in Exhibit 9 or 25 otherwise used by Ferguson as of September 2011</p>
<p style="text-align: right;">154</p> <p>1 BY MR. JOHNSON: 2 Q Anything that discusses any prohibition 3 that activation of the X26 cannot extend beyond five 4 seconds? 5 MR. PLUNKERT: Same objection. 6 A That's in the training. I don't see it in 7 here. 8 BY MR. JOHNSON: 9 Q Which training? 10 A The Taser training. 11 Q Which Taser training as of September 2011? 12 MR. PLUNKERT: Lack of foundation. 13 BY MR. JOHNSON: 14 Q Go ahead, sir. I'm just asking what 15 you're referring to. 16 A I'm referring to the training their 17 officers received from Brannon. 18 Q So you're referring generally to training 19 that Mr. Brannon would have given Ferguson officers 20 as of and before September 2011? 21 A Yes. 22 Q Which you don't know the substance of? 23 A I witnessed some of it. 24 Q Okay. Did any of that that you witnessed 25 contain a prohibition that you cannot utilize the</p>	<p style="text-align: right;">156</p> <p>1 associated with using the Taser on individuals that 2 may be at a heightened risk for serious injury or 3 death, such as the pregnant, the elderly, children, 4 emotionally unstable people, anybody like that? 5 MR. PLUNKERT: Lack of foundation. 6 A In this order? 7 BY MR. JOHNSON: 8 Q Yes, sir. 9 MR. PLUNKERT: Also form. 10 BY MR. JOHNSON: 11 Q Or Exhibit 8. 12 MR. PLUNKERT: Same objections. 13 A No specific mentions that I can see. 14 BY MR. JOHNSON: 15 Q Any mentions in these policies, Exhibits 8 16 and 9, or otherwise in use at Ferguson as of 17 September 2011, that the application of a Taser 18 after the first application should be independently 19 justifiable? 20 A That's not written in this order. 21 Q And weighed against other force options? 22 A In general it says it should be weighed 23 against. The general order determines that the 24 officer must determine which is the appropriate use 25 of force, so yes.</p>

<p style="text-align: right;">157</p> <p>1 Q And that's Exhibit 8, sir?</p> <p>2 A Exhibit 8, yes.</p> <p>3 Q Any policy or procedure found in</p> <p>4 Exhibits 8 or 9 or otherwise in use at Ferguson as</p> <p>5 of September 2011 that discuss positional</p> <p>6 asphyxiation -- positional asphyxia and how it can</p> <p>7 exacerbate an individual's condition who has</p> <p>8 received use of a Taser application?</p> <p>9 MR. PLUNKERT: Lack of foundation. You</p> <p>10 can answer.</p> <p>11 A No, I don't see that in there.</p> <p>12 BY MR. JOHNSON:</p> <p>13 Q How about the words "excited delirium"?</p> <p>14 Were those ever used in any policy or general order</p> <p>15 that you signed?</p> <p>16 A Any general order, I don't know.</p> <p>17 Q How about any general order as it relates</p> <p>18 to the Taser device? Do you recall that phrase</p> <p>19 coming up --</p> <p>20 A No.</p> <p>21 Q -- in your general orders, sir?</p> <p>22 A No, I do not.</p> <p>23 Q Did Taser ever train Ferguson on excited</p> <p>24 delirium? Taser International.</p> <p>25 MR. PLUNKERT: Lack of foundation.</p>	<p style="text-align: right;">159</p> <p>1 MR. PLUNKERT: Objection. Foundation.</p> <p>2 BY MR. JOHNSON:</p> <p>3 Q Did you, police chief, ever provide that</p> <p>4 admonition to any of your officers, that the use of</p> <p>5 the Taser device can cause death?</p> <p>6 A That's implicit in the training and in its</p> <p>7 title.</p> <p>8 Q Did you yourself do it?</p> <p>9 A Me personally --</p> <p>10 Q Yeah.</p> <p>11 A -- I didn't do a whole lot of training.</p> <p>12 Q Do you know if Mr. Brannon, prior to</p> <p>13 September 2011, ever gave that admonition to any of</p> <p>14 the trainees that he trained on the use of the Taser</p> <p>15 device?</p> <p>16 A I don't know.</p> <p>17 Q Because you obviously didn't sit in every</p> <p>18 second with him in the training?</p> <p>19 A I did not.</p> <p>20 Q And -- strike that. I don't want to be</p> <p>21 too repetitive here, but I need to cover one other</p> <p>22 aspect. I want to focus -- instead of policies and</p> <p>23 procedures and general orders and rules, I want to</p> <p>24 focus on training for a second.</p> <p>25 A Okay.</p>
<p style="text-align: right;">158</p> <p>1 BY MR. JOHNSON:</p> <p>2 Q To your knowledge.</p> <p>3 A I don't know.</p> <p>4 Q I think you said earlier, Taser</p> <p>5 International never sent anybody to Ferguson, to</p> <p>6 your knowledge, did they?</p> <p>7 A Not that I saw. I don't know if Brannon</p> <p>8 met with them.</p> <p>9 Q Would he be the best person to talk to</p> <p>10 about that, about any interfacing with Taser</p> <p>11 International?</p> <p>12 A Yes.</p> <p>13 Q Was there any policy, procedure, or</p> <p>14 general order that you signed in effect as of</p> <p>15 September 2011 that Taser can cause or contribute to</p> <p>16 cause death?</p> <p>17 MR. PLUNKERT: Form and foundation. You</p> <p>18 may answer.</p> <p>19 A That's specifically in the general order,</p> <p>20 no, but that is -- that's why they're called less</p> <p>21 lethal weapons as opposed to nonlethal weapons.</p> <p>22 BY MR. JOHNSON:</p> <p>23 Q They still have the capacity to cause</p> <p>24 death, true?</p> <p>25 A Yes.</p>	<p style="text-align: right;">160</p> <p>1 Q To your knowledge, did Ferguson ever train</p> <p>2 its officers on the use of the Taser that there</p> <p>3 should be a limitation on the number of cycles</p> <p>4 before September 2011?</p> <p>5 MR. PLUNKERT: Objection. Lack of</p> <p>6 foundation. You may answer.</p> <p>7 A I don't know. I wasn't in on that</p> <p>8 specific training.</p> <p>9 BY MR. JOHNSON:</p> <p>10 Q I'll cut to the chase.</p> <p>11 Do you know any specific topic or aspect</p> <p>12 of Taser training that Mr. Brannon gave officers of</p> <p>13 the Ferguson Police Department on the use of the</p> <p>14 Taser before September 2011?</p> <p>15 A No.</p> <p>16 Q Did you -- did Mr. Brannon ever come to</p> <p>17 you and say that PERF had changed the Electronic</p> <p>18 Control Weapon Guidelines in 2011, and specifically</p> <p>19 in March?</p> <p>20 A I don't remember the conversation. I</p> <p>21 don't remember if we had one, no, I don't.</p> <p>22 (Deposition Exhibit Number 10</p> <p>23 marked for identification.)</p> <p>24 BY MR. JOHNSON:</p> <p>25 Q I'm going to show you Exhibit 10 --</p>

<p style="text-align: right;">161</p> <p>1 MR. PLUNKERT: We've been going for about</p> <p>2 another hour. Do you want to take a break now?</p> <p>3 MR. JOHNSON: Can we -- really quick, he's</p> <p>4 not going to know anything about this, but I'll</p> <p>5 ask him.</p> <p>6 THE WITNESS: Thanks for your confidence.</p> <p>7 MR. JOHNSON: That's all right. We'll get</p> <p>8 there. Just making a record.</p> <p>9 THE WITNESS: Okay.</p> <p>10 BY MR. JOHNSON:</p> <p>11 Q What is -- do you know Exhibit 10? Have</p> <p>12 you seen Exhibit 10? This is the PERF/COPS 2011</p> <p>13 Electronic Control Weapon Guidelines, and it's a</p> <p>14 multiple-page document.</p> <p>15 A I don't think I reviewed this document; I</p> <p>16 think you're correct.</p> <p>17 Q Do you ever recall, in your time at</p> <p>18 Ferguson, Mr. Jackson, recall receiving Exhibit 10?</p> <p>19 A No.</p> <p>20 Q Do you recall the substance of Exhibit 10</p> <p>21 ever coming up in any conversation around the</p> <p>22 station as far as an updating of guidelines for the</p> <p>23 use of electronic control weapons?</p> <p>24 A I don't recall any conversation I was</p> <p>25 involved in.</p>	<p style="text-align: right;">163</p> <p>1 A It was no more or less than anybody</p> <p>2 else's. The officers -- I actually put together a</p> <p>3 chief's committee when I started there where I</p> <p>4 had -- a representative from each work unit would</p> <p>5 meet with me to discuss concerns and</p> <p>6 recommendations, things like that, so this -- this</p> <p>7 was one of the early topics in those meetings.</p> <p>8 Q Was there a chief's committee dedicated</p> <p>9 solely to the acquisition of Taser ECWs?</p> <p>10 A No.</p> <p>11 Q Was Mr. Kaminski on the chief's committee</p> <p>12 generally as it relates to any number of</p> <p>13 recommendations?</p> <p>14 A At various points, yes.</p> <p>15 Q And what do you recall Mr. Kaminski</p> <p>16 chiming in on as far as recommendations on your</p> <p>17 committee?</p> <p>18 A Nothing specific. Just that he knew, as</p> <p>19 well as everybody else, that we were the only agency</p> <p>20 in the area that didn't have Tasers.</p> <p>21 Q Did he say it was a good idea to get them?</p> <p>22 A I don't remember.</p> <p>23 Q Did he ever train, "he" meaning</p> <p>24 Mr. Kaminski, ever train other Ferguson officers on</p> <p>25 the use of the Taser ECW?</p>
<p style="text-align: right;">162</p> <p>1 Q Do you know if the training curriculum</p> <p>2 Mr. Brannon administered to Ferguson officers was</p> <p>3 provided only by Taser International?</p> <p>4 A I don't know if he only used that.</p> <p>5 Q Do you know if Mr. Ballard was trained on</p> <p>6 the use of a Taser ECW?</p> <p>7 A I do not.</p> <p>8 Q Do you know if Mr. White was?</p> <p>9 A Again, it was my understanding that</p> <p>10 everybody received the training.</p> <p>11 Q Do you know if Mr. Kaminski was?</p> <p>12 A Yes. I believe he -- he was -- he trained</p> <p>13 at a different department.</p> <p>14 Q Which department was that?</p> <p>15 A Cool Valley.</p> <p>16 Q Okay. And do you know who he trained</p> <p>17 through at Cool Valley?</p> <p>18 A No, I don't.</p> <p>19 Q And how do you know Mr. Kaminski trained</p> <p>20 through Cool Valley?</p> <p>21 A He was one of the people, when we were</p> <p>22 talking about getting the Tasers, that had some</p> <p>23 knowledge of it.</p> <p>24 Q Tell me about Mr. Kaminski's input into</p> <p>25 making the decision to purchase Tasers at Ferguson.</p>	<p style="text-align: right;">164</p> <p>1 A Not that I'm aware of.</p> <p>2 MR. PLUNKERT: Objection. Lack of</p> <p>3 foundation.</p> <p>4 A No.</p> <p>5 THE COURT REPORTER: Your answer again?</p> <p>6 THE WITNESS: Hmm?</p> <p>7 THE COURT REPORTER: Your answer?</p> <p>8 THE WITNESS: No. No.</p> <p>9 MR. PLUNKERT: Are we all right to break</p> <p>10 or ...</p> <p>11 MR. JOHNSON: Yeah.</p> <p>12 THE VIDEOGRAPHER: We're off the record at</p> <p>13 12:32. This will end disk number 2.</p> <p>14 (Recess taken.)</p> <p>15 MR. PLUNKERT: Counsel for Plaintiffs and</p> <p>16 Defendants had a conversation off the record</p> <p>17 actually not really related to the question</p> <p>18 that just happened, but it has to do with the</p> <p>19 Taser records that may or may not be in Cool</p> <p>20 Valley's possession.</p> <p>21 Brian Malone stated that he was willing to</p> <p>22 tender any of the documents and was aware that</p> <p>23 we had a motion for protective order or quash</p> <p>24 regarding the subpoena to Cool Valley, so what</p> <p>25 we've now agreed upon was that Brian Malone</p>

<p style="text-align: right;">165</p> <p>1 will produce the personnel file of Kaminski to 2 defense counsel and that we will look through 3 it and take upon any other objections, and 4 Brian Malone will thereby have complied with 5 the subpoena to the extent of Plaintiffs' 6 request. Do I have that summarized pretty 7 much? 8 MR. DOWD: I think pretty much that you 9 were then going to redact that and produce it 10 to us, and the redaction would be consistent 11 with what we've agreed to with regard to 12 Kaminski and White's files that were produced 13 from Ferguson, financial information, medical 14 information. 15 MS. SHAFAR: Psychotherapist privilege. 16 MR. DOWD: Stuff that you considered 17 privileged, yeah. 18 MR. PLUNKERT: I was operating 19 under the -- that we were going to reassess all 20 of that and really reconsider the Taser part 21 and hopefully produce the Taser part after we 22 meet and confer as a group. 23 And then the other things, we can possibly 24 do that, we're going to work on that, but it's 25 to reassess and not -- I can't agree right now</p>	<p style="text-align: right;">167</p> <p>1 A I do. 2 Q What -- after there is a method of force 3 that's utilized by a Ferguson Police Department 4 officer, what additional administrative requirements 5 exist once that force has been utilized? 6 A In addition to the normal reporting, the 7 supervisor has to conduct an investigation 8 immediately on that use of force and submit that 9 through the chain with a recommendation on whether 10 the use of force did or did not meet policy. 11 Q And did the use of a Taser then 12 necessitate even additional administrative 13 procedures? 14 A Yes. There's an additional Taser report 15 that goes into more detail about the use of the 16 Taser, specifically where the prongs hit and so 17 forth. 18 Q And who completes the Taser use report? 19 Is it the supervisor or the officer that 20 completes the -- 21 A Well, the officer is going to complete it 22 under the supervisor's watch and the supervisor will 23 approve the entire package. 24 Q There we go. Okay. I'm sorry, sir. 25 A That's okay.</p>
<p style="text-align: right;">166</p> <p>1 to produce it with redactions; I just haven't 2 seen it. 3 MR. DOWD: Okay. My understanding was you 4 would produce it with redactions, but I 5 understand your concern. I would just say, if 6 you see something that you don't want to 7 produce, you would redact it and state why, as 8 you've done in the past. But your procedure is 9 fine, you get it, make an assessment, we'll 10 meet and confer and move down the road. 11 MR. PLUNKERT: Great. Yeah, we will -- we 12 will definitely meet and confer. That sounds 13 good. 14 MR. DOWD: Thank you. 15 MR. PLUNKERT: Now we can do video. 16 THE VIDEOGRAPHER: We're back on record at 17 1:00. This begins disk number 3 in the 18 deposition of Chief Thomas Jackson. Please 19 continue. 20 BY MR. JOHNSON: 21 Q Mr. Jackson, I want to refer your 22 attention back to the Exhibit 8, which is the 23 general use-of-force policy or general order that 24 was utilized at Ferguson during the period of time 25 you were police chief. Do you see that, sir?</p>	<p style="text-align: right;">168</p> <p>1 Q So on page 8 of Exhibit 8, as far as the 2 administrative procedures to follow, once less 3 lethal force is utilized -- actually, it starts on 4 page 7 temporally. Do you see the lower portion 5 under subsection F? 6 A Yes. 7 Q So the first administrative procedure to 8 be followed once less lethal force is utilized, it 9 looks like, "The watch commander or appropriate 10 bureau commander must be notified in the event 11 extraordinary circumstances varying from standard 12 handcuffing or detention is utilized." 13 Is that the first administrative followup 14 procedure once less lethal force is utilized? 15 A Yes. 16 Q And can they be notified verbally that 17 less lethal force has been used? 18 A The ... 19 Q The watch commander or bureau commander. 20 A Yes. 21 Q And "If there is physical injury or death 22 to a person," it looks like, "the watch commander, 23 supervisor and/or bureau commander supervisor must 24 respond to the scene." 25 Did I read that correctly?</p>

<p style="text-align: right;">169</p> <p>1 A Yes. Yes.</p> <p>2 Q So if Lieutenant Ballard is the one who</p> <p>3 responds to the scene on September 17th, 2011,</p> <p>4 involving Mr. Moore, is Mr. Ballard considered the</p> <p>5 watch commander supervisor or bureau commander</p> <p>6 supervisor?</p> <p>7 A Yes. He would be the watch commander.</p> <p>8 Q Okay. So was he the highest-ranking</p> <p>9 patrol officer working at the time, then?</p> <p>10 A I'm sure he was.</p> <p>11 Q On that shift?</p> <p>12 A (Nods head.)</p> <p>13 Q And so at the scene, under the</p> <p>14 use-of-force policy, who is the commander or</p> <p>15 supervisor then responsible for ensuring the</p> <p>16 investigation and any type of reporting that we see</p> <p>17 in the middle portion of page 8 of Exhibit 8?</p> <p>18 A Well, that would be -- that would be</p> <p>19 Lieutenant Ballard, the commander.</p> <p>20 Q And is he then also the individual who is</p> <p>21 in charge of reviewing for accuracy any police</p> <p>22 report authored by the police officer who has used</p> <p>23 force in those circumstances?</p> <p>24 A Yes.</p> <p>25 Q And it looks like the last step would be</p>	<p style="text-align: right;">171</p> <p>1 generally in the Boundary Waters Canoe Area</p> <p>2 Wilderness.</p> <p>3 Q Whereabouts?</p> <p>4 A Minnesota-Canada border.</p> <p>5 Q Okay.</p> <p>6 A It was a condition of my employment.</p> <p>7 Q All right. How many weeks do you go up</p> <p>8 there?</p> <p>9 A We usually go up for -- it's a total of</p> <p>10 about two weeks. We're going later this -- this</p> <p>11 year.</p> <p>12 Q Post-Labor Day?</p> <p>13 A Yes.</p> <p>14 Q So just from memory and vacation work, you</p> <p>15 know, things like that can catch your attention, do</p> <p>16 you recall this being brought to your attention at</p> <p>17 the time, that there was an incident involving an</p> <p>18 officer, a Taser, and a death of an individual.</p> <p>19 A Yes.</p> <p>20 Q In what way were you notified of this</p> <p>21 incident with Mr. Moore?</p> <p>22 A By telephone.</p> <p>23 Q And who contacted you?</p> <p>24 A That I don't remember. Again, I'm pretty</p> <p>25 sure I was on my way back from Minnesota at the</p>
<p style="text-align: right;">170</p> <p>1 to forward the use-of-force report, the police</p> <p>2 report, and any supplemental reports to you.</p> <p>3 A Yes.</p> <p>4 Q Do you know if that was done in the case</p> <p>5 of Mr. Moore? And that's a vague question. Let me</p> <p>6 break it up.</p> <p>7 A Yeah.</p> <p>8 Q Let's start at the beginning.</p> <p>9 Do you know if Mr. Ballard went to the</p> <p>10 scene?</p> <p>11 A I didn't witness it, but it's my</p> <p>12 understanding that he did.</p> <p>13 Q Do you know if Mr. Ballard is the one who</p> <p>14 reviewed the accuracy of any reporting of the</p> <p>15 incident and use of force by Mr. Kaminski?</p> <p>16 A I believe he was.</p> <p>17 Q And do you know, from memory or otherwise,</p> <p>18 whether you were sent any of the reports associated</p> <p>19 with Mr. Moore's incident?</p> <p>20 A It would have been either me or, if I was</p> <p>21 gone, the acting chief of police.</p> <p>22 Q Was there anything in your life going on</p> <p>23 in September of 2011 that caused you to be away from</p> <p>24 the department for any reason?</p> <p>25 A That -- that particular time I am</p>	<p style="text-align: right;">172</p> <p>1 time.</p> <p>2 Q Up there with family?</p> <p>3 A No. No. It's a wilderness trip, canoeing</p> <p>4 and portage and fishing, backpacking.</p> <p>5 Q Do you go with friends or family or ...</p> <p>6 A Both.</p> <p>7 Q Both. Okay. Regardless of who contacted</p> <p>8 you, do you recall what was said about the facts and</p> <p>9 circumstances of the incident?</p> <p>10 A Yes.</p> <p>11 Q What was said to you?</p> <p>12 A In general --</p> <p>13 MR. PLUNKERT: Can I ask him this? Was it</p> <p>14 an attorney that said any of this to you?</p> <p>15 THE WITNESS: Hmm?</p> <p>16 MR. PLUNKERT: Was it an attorney or a</p> <p>17 nonattorney that said this to you?</p> <p>18 THE WITNESS: Nonattorney.</p> <p>19 MR. PLUNKERT: Go ahead. Thank you.</p> <p>20 A That officers got called to Airport Road</p> <p>21 6, 6:30 in the morning, early in the morning; there</p> <p>22 was a man running around naked punching cars.</p> <p>23 Officers arrived on the scene. Refused to respond;</p> <p>24 charged the officer. He was tased, stopped</p> <p>25 breathing. The officers began CPR on him and</p>

<p style="text-align: right;">173</p> <p>1 maintained that until the ambulance arrived. 2 BY MR. JOHNSON: 3 Q Any other facts and circumstances you 4 heard in the first phone call? 5 A Not that I remember. 6 Q Did you have any further involvement with 7 this incident with Mr. Moore between receiving the 8 call and returning to work? 9 A Not that I remember. Not that I remember. 10 I would have, you know, maintained contact and kept 11 apprised, but I don't -- I don't remember 12 conversations. 13 Q Is there a calendar document, Day Planner, 14 some form of that nature, that would show when you 15 did return from your trip in 2011? 16 A I haven't been able to locate it. It's -- 17 it's on the documents that I lost. 18 Q Would there be a personnel form or HR form 19 with the City of Ferguson that would show when you 20 had your vacation that year? 21 A It's possible, but it wouldn't necessarily 22 be accurate since I'm salaried department head. 23 Q Right. Do you recall ever receiving the 24 use-of-force report, the police report, and any 25 supplemental reports as it relates to the incident</p>	<p style="text-align: right;">175</p> <p>1 incident? 2 A Again, I'm sure I did. I don't remember 3 the conversation. He's probably the one that called 4 me. 5 Q Did you speak with Officer White about the 6 incident? 7 A I don't remember. 8 Q Did you speak with anybody that you 9 understand to have witnessed the occurrence 10 involving Mr. Moore? 11 A No. 12 Q Did you speak with anybody that you 13 understand to have responded after the fact, had 14 been in the area where Mr. Moore was involved in the 15 incident with Mr. Kaminski? 16 A Again, Lieutenant Ballard, most likely. 17 Q How about any other persons from any other 18 agency such as EMS, fire, or other law enforcement? 19 A No. 20 Q Did Ferguson use the services of EMS in 21 calls? 22 A Yes. 23 Q Was that conducted through Ferguson's 24 communications department? 25 A It's the fire department that dispatches</p>
<p style="text-align: right;">174</p> <p>1 involving Mr. Moore for your review? 2 A I don't. I don't remember. 3 Q Do you recall conducting any type of 4 evaluation or audit of the police activities as it 5 relates to the incident with Mr. Moore? 6 A Just getting briefs from my commanders on 7 the incident. 8 Q Did you receive further information about 9 the facts and circumstances of the incident 10 involving Mr. Moore other than the initial phone 11 call? 12 A Pretty much the same information. It was 13 not a whole lot new. 14 Q Did you ever speak with Mr. Kaminski about 15 the incident? 16 A I'm sure I did. I don't remember the 17 conversation. 18 Q Do you know how -- 19 A Usually when my officers are involved in 20 something traumatic, you know, that I would -- I 21 would talk to them. 22 Q Do you remember anything about the 23 conversation? 24 A No, I don't. 25 Q Did you speak with Mr. Ballard about the</p>	<p style="text-align: right;">176</p> <p>1 the ambulances. And when officers call for an 2 ambulance over the walkie-talkie, that's referred 3 from our communications to the fire department. 4 Q So if an officer calls for ambulance 5 assistance, does it go to the fire department first 6 and then the fire department dispatches EMS? 7 A No. It goes to -- the police radios go to 8 police communications -- 9 Q Right. 10 A -- and then they -- they transfer the 11 information. 12 Q So police communications transfers the 13 call over to fire communications? 14 A If the call is done on the walkie-talkie 15 or the radio, yes. 16 Q And then fire communications dispatches 17 EMS to the scene? 18 A Yes. 19 Q And the service provider for EMS as of 20 September of 2011 is who? 21 A Christian -- BJC -- Christian Hospital 22 Ambulance Service. 23 Q And is the fire department communications 24 housed where the police department communications 25 is?</p>

<p style="text-align: right;">177</p> <p>1 A No, it's not.</p> <p>2 Q Separate buildings?</p> <p>3 A Yes.</p> <p>4 Q Did you ever speak with anybody that you</p> <p>5 understand to have been a family member of Jason</p> <p>6 Moore about the incident involving him?</p> <p>7 A Yes.</p> <p>8 Q Who did you speak with, sir?</p> <p>9 A I believe it was his wife and mother.</p> <p>10 Q And where was this meeting?</p> <p>11 A In the lobby of the police station.</p> <p>12 Q And when was it? When did you have ...</p> <p>13 A It was not too long after the incident.</p> <p>14 Q Within a week?</p> <p>15 MR. PLUNKERT: Objection. Lack of</p> <p>16 foundation.</p> <p>17 BY MR. JOHNSON:</p> <p>18 Q If you know. Go ahead.</p> <p>19 A I couldn't say that with any certainty.</p> <p>20 Q And tell me about the conversation, sir.</p> <p>21 A They were angry and, you know, hurled</p> <p>22 quite a few insults at me. I simply told them that</p> <p>23 I was deeply sorry for the tragic loss, I can't</p> <p>24 imagine how it feels, and that ... that's pretty</p> <p>25 much it.</p>	<p style="text-align: right;">179</p> <p>1 then that would have triggered a complaint.</p> <p>2 Q Was there any further review of the use of</p> <p>3 force that Mr. Kaminski used against Mr. Moore once</p> <p>4 a lawsuit was filed?</p> <p>5 MR. PLUNKERT: Let me object on the</p> <p>6 grounds that if it's work done in anticipation</p> <p>7 of litigation it's covered by the work-product</p> <p>8 doctrine.</p> <p>9 Subject to that, if it's a departmental</p> <p>10 normal business routine thing, you're free to</p> <p>11 answer that.</p> <p>12 BY MR. JOHNSON:</p> <p>13 Q That's all I'm asking for, sir.</p> <p>14 Through the normal business channels, was</p> <p>15 there any further different or additional evaluation</p> <p>16 done once a lawsuit was filed claiming that</p> <p>17 Mr. Kaminski had engaged in excessive force?</p> <p>18 A Not that I recall.</p> <p>19 Q Any further communication you had with</p> <p>20 anybody that you associate to be a family member of</p> <p>21 Mr. Moore about this incident?</p> <p>22 A No.</p> <p>23 Q Do you know if anybody in your department</p> <p>24 had any communication with any member of the Moore</p> <p>25 family, wife, mother, siblings, et cetera, about</p>
<p style="text-align: right;">178</p> <p>1 Q Were they critical of the department?</p> <p>2 A They were critical of me, yeah, they were.</p> <p>3 Q And what was their criticism of you, sir?</p> <p>4 A That I was a racist and an atheist.</p> <p>5 Q Anything else?</p> <p>6 A Nothing worth repeating.</p> <p>7 Q Okay. Were they critical of the officer's</p> <p>8 conduct?</p> <p>9 A I don't remember that specifically.</p> <p>10 Q Did you view this as something where some</p> <p>11 form of review was necessary of the officer's</p> <p>12 conduct?</p> <p>13 A There's always -- yeah, always in a use of</p> <p>14 force --</p> <p>15 Q We know there's the review of the use of</p> <p>16 force -- go ahead.</p> <p>17 A There's always the procedure that we</p> <p>18 called for in the use of force.</p> <p>19 Q What use-of-force review was done in the</p> <p>20 incident involving Mr. Kaminski and Mr. Moore?</p> <p>21 A The supervisor's investigative report</p> <p>22 would have been done.</p> <p>23 Q Anything else, sir?</p> <p>24 A No. That would -- if there was a finding</p> <p>25 that it was not in -- not in keeping with policy,</p>	<p style="text-align: right;">180</p> <p>1 this incident?</p> <p>2 A I don't know.</p> <p>3 Q Was any member of the Ferguson Police</p> <p>4 Department disciplined as it relates to the incident</p> <p>5 involving Mr. Moore?</p> <p>6 A Not that I'm aware of.</p> <p>7 Q Did Mr. Kaminski take any leave of</p> <p>8 absence, to your knowledge?</p> <p>9 A I'd have to check on that. That would</p> <p>10 normally be the procedure, we would send them to</p> <p>11 counseling prior to returning to work, but I don't</p> <p>12 remember.</p> <p>13 Q We touched upon the Department of Justice</p> <p>14 report that was issued in 2015 earlier.</p> <p>15 Do you recall that testimony, sir?</p> <p>16 A Yes, I do.</p> <p>17 Q I'm going to hand you a copy of the</p> <p>18 report. It's lengthy, as you know. And I'm going</p> <p>19 to ask you some questions about it. I'm going to</p> <p>20 mark it as Exhibit 11.</p> <p>21 (Deposition Exhibit Number 11</p> <p>22 marked for identification.)</p> <p>23 BY MR. JOHNSON:</p> <p>24 Q Feel free to leaf through Exhibit 11 to</p> <p>25 make sure it's complete as you believe it to be,</p>

<p style="text-align: right;">181</p> <p>1 sir, and I'm going to bounce around with some 2 questions. 3 MR. PLUNKERT: You want him to read the 4 whole thing? 5 MR. JOHNSON: No, I don't. 6 BY MR. JOHNSON: 7 Q I just want to say, is it approximately 8 102 pages? As best as you recall. 9 A Yeah. 10 Q I'm not trying to hide anything from you. 11 This report was issued by the United 12 States Department of Justice, Civil Rights Division, 13 is that true? 14 A It is. 15 Q And you did receive Exhibit 11 in the 16 course of your work working for the Ferguson Police 17 Department? 18 A I did. 19 Q And before you resigned you did review the 20 findings of the investigation of the DOJ, correct? 21 A Yes. 22 Q Were you contacted by the DOJ for them to 23 come out and perform an investigation yourself? 24 Did they go through you or somebody else 25 to make those arrangements?</p>	<p style="text-align: right;">183</p> <p>1 they ignored the efforts that I had put in, which 2 I've -- some of it is before you, again, makes me 3 have no confidence in this report. I consider it a 4 worthless document. 5 BY MR. JOHNSON: 6 Q How many people were assigned to the 7 investigation that you observed? 8 A About four. 9 Q And you said "rush job," but what do you 10 mean to be "rush job"? 11 A Their pattern-and-practice investigations 12 that were started before Ferguson that are not 13 complete, as I understand. It was timed to -- to a 14 press conference. 15 And as a matter of fact, when they met 16 with us initially, they -- we told them all the -- 17 the good stuff we were doing in Ferguson and 18 particularly in the apartment complex areas. And 19 they said they were going to go back to D.C. and 20 have some conversations and decide whether or not we 21 would have a pattern and practices, a collaborative 22 agreement, or nothing. 23 I walked out of that meeting and was met 24 by CNN, who said that the attorney general said they 25 were opening a pattern-and-practice investigation on</p>
<p style="text-align: right;">182</p> <p>1 A Through mostly me, yeah. 2 Q Okay. And I'm not here to pour through 3 every detail of that investigation, but I want to 4 understand some of the contours, okay? 5 A Mm-hmm. 6 Q First of all, how long did it take? 7 A It was rushed. 8 Q Oh, this is -- it was rushed? 9 A It was a rushed -- it was a rushed 10 investigation and I have no confidence in at all. 11 Q I'm here just to ask factual questions. 12 A I understand. 13 Q I understand that this may be a source of 14 consternation. 15 A Saying it on the record, yeah. 16 Q Is it a source of consternation for you? 17 MR. PLUNKERT: Let me object. It's 18 calling for an opinion, it calls for 19 speculation. You know, feel free to answer. 20 A Again, they -- they ignored evidence to 21 the contrary what they said. They used unverified 22 statements, unsubstantiated statements. They 23 have -- had clearly no knowledge of police work. 24 And the fact that they ignored strong 25 evidence to the contrary what they put in here, and</p>	<p style="text-align: right;">184</p> <p>1 us. That was my initial hint that this was not 2 going to be a fair investigation, but we cooperated 3 fully. 4 Q The information requests that were made, 5 sir, what form of information requests did the 6 Department of Justice make of you, of your 7 department? 8 A Tens of thousands of documents, anything 9 you can possibly imagine. 10 Q Were they through -- 11 A It was at a time when we were undergoing 12 riots and our police station was being renovated, so 13 all our -- all our documents were in boxes, and 14 so ... 15 Q Were they letter requests, were they 16 subpoenas, were they document requests? 17 How do you describe what information 18 requests the DOJ made that they believe formed the 19 basis of the report? 20 A Some of it was in writing, some of it they 21 just asked me for. Some of it was by email. 22 Q Were there document preservation notices 23 served to the department to keep and maintain 24 certain documents? 25 A I don't know. I didn't get served with</p>

<p>185</p> <p>1 anything.</p> <p>2 Q Okay. Did you receive what you understand</p> <p>3 to be a letter demanding that you preserve certain</p> <p>4 information from the Department of Justice?</p> <p>5 A Yes, I believe I did.</p> <p>6 Q To your knowledge, was it still in effect</p> <p>7 as of the date you left your position as chief?</p> <p>8 A I don't know.</p> <p>9 Q Were you the main liaison between the</p> <p>10 Ferguson Police Department and the Department of</p> <p>11 Justice in terms of providing information to the DOJ</p> <p>12 for their investigation?</p> <p>13 A I'd say that it bounced around a lot. It</p> <p>14 was me, my administrative assistant sometimes, and</p> <p>15 the city clerk. It was a busy time, so they were</p> <p>16 very imposing.</p> <p>17 Q Did the four people who appeared at the</p> <p>18 police department to perform the investigation</p> <p>19 conduct any witness interview of you?</p> <p>20 A Did they interview me, are you saying?</p> <p>21 Q Yes.</p> <p>22 A We spoke many times.</p> <p>23 Q Did you consider to meet with them for</p> <p>24 purposes of an interview, similar to what we're</p> <p>25 doing here today, where they're asking you certain</p>	<p>187</p> <p>1 Q I want to focus on some. Let's start with</p> <p>2 the incidents that are identified on page 28. It</p> <p>3 talks about Fourth Amendment practices.</p> <p>4 A Mm-hmm.</p> <p>5 Q And I'll let you get to that first.</p> <p>6 A Did you say page 28?</p> <p>7 Q Page 28 of Exhibit 11. And I actually</p> <p>8 want to go to page 29 under a subparagraph of that</p> <p>9 subheader. Do you see on page 29 starting with an</p> <p>10 incident identified in August of 2010?</p> <p>11 A Yes.</p> <p>12 Q What sources of information that you know</p> <p>13 of did the DOJ look to to obtain the different</p> <p>14 anecdotes that we see? For example, we see an</p> <p>15 "August 2010 ECW drive stun mode," okay?</p> <p>16 Do you know what they located to put this</p> <p>17 type of information in Exhibit 11?</p> <p>18 MR. PLUNKERT: Lack of foundation. You</p> <p>19 can answer.</p> <p>20 A No, I don't.</p> <p>21 BY MR. JOHNSON:</p> <p>22 Q Do you know if it's an offense report, do</p> <p>23 you know if it's -- do you have any idea?</p> <p>24 MR. PLUNKERT: Same --</p> <p>25 A I have no idea.</p>
<p>186</p> <p>1 questions about the practices of the department?</p> <p>2 A It was never -- never seemed adversarial</p> <p>3 at all.</p> <p>4 Q Did you ever give what you understood to</p> <p>5 be a deposition relating to the DOJ investigation?</p> <p>6 A No.</p> <p>7 Q Were you ever represented by counsel in</p> <p>8 any of your communication with the DOJ about the</p> <p>9 practices of the police department?</p> <p>10 A I don't think so.</p> <p>11 Q Do you know if --</p> <p>12 MR. PLUNKERT: Do you mean aside --</p> <p>13 well --</p> <p>14 THE WITNESS: That's what I'm saying.</p> <p>15 MR. PLUNKERT: Well -- and you can go on.</p> <p>16 That's fine. I can ask him. I'll follow up.</p> <p>17 MR. JOHNSON: That's fine. I'm just</p> <p>18 trying to get the sources of information.</p> <p>19 BY MR. JOHNSON:</p> <p>20 Q Do you know if any of your police officers</p> <p>21 were interviewed by the DOJ?</p> <p>22 A Yes.</p> <p>23 Q The incidents -- and I don't want to</p> <p>24 discuss every chapter of this.</p> <p>25 A Sure.</p>	<p>188</p> <p>1 MR. PLUNKERT: Same objection.</p> <p>2 BY MR. JOHNSON:</p> <p>3 Q Were you provided with the foundational</p> <p>4 support for these different incidents by the DOJ</p> <p>5 once they released the report? Did they return to</p> <p>6 you, for example -- let me -- let me do it this way:</p> <p>7 We see, for example, "In August 2010, a</p> <p>8 lieutenant used an ECW in drive stun mode against an</p> <p>9 African-American woman in the Ferguson City Jail</p> <p>10 because she had refused to remove her bracelets."</p> <p>11 Did the DOJ then give to you or others</p> <p>12 within the department, to your knowledge, the</p> <p>13 supporting documentation underneath that event?</p> <p>14 MR. PLUNKERT: Object to the form of that</p> <p>15 question. You may answer.</p> <p>16 A No, they did not.</p> <p>17 BY MR. JOHNSON:</p> <p>18 Q So if we were to go through each of the</p> <p>19 anecdotal events underneath a claimed ECW event, a</p> <p>20 claimed Fourth Amendment violation, a claimed</p> <p>21 escalation, you are not aware of the factual or</p> <p>22 supporting data for that?</p> <p>23 A That's correct.</p> <p>24 Q At least through the DOJ?</p> <p>25 A Yes.</p>

<p style="text-align: right;">189</p> <p>1 Q Do you recall, though, independent of this</p> <p>2 investigation in this document, this incident in</p> <p>3 August of 2010 involving the use of the ECW against</p> <p>4 the lady in jail?</p> <p>5 A No, I do not.</p> <p>6 Q If I asked you for the facts and</p> <p>7 circumstances of that event, including the officer</p> <p>8 involved, the person involved, and the use of force</p> <p>9 involved, could you give me any further information?</p> <p>10 A No, I could not.</p> <p>11 Q Could you give me any further information</p> <p>12 about any of the events involving the use of an ECW</p> <p>13 that are contained in Exhibit 11?</p> <p>14 MR. PLUNKERT: Object to the form.</p> <p>15 BY MR. JOHNSON:</p> <p>16 Q We can go through them, if you want.</p> <p>17 A No.</p> <p>18 Q Do you know?</p> <p>19 A No.</p> <p>20 Q I mean, I know it's 2015 and these events</p> <p>21 happened some time ago --</p> <p>22 A Yeah.</p> <p>23 Q -- but having looked at the report, having</p> <p>24 disagreed with the report and having me ask you more</p> <p>25 questions about the report today, do you think it</p>	<p style="text-align: right;">191</p> <p>1 A No.</p> <p>2 Q So the offense report -- I'm not going to</p> <p>3 mark this, but Ferguson 0008 Investigative Report,</p> <p>4 would that be the same for activity on the street as</p> <p>5 opposed to activity at the jail?</p> <p>6 A Yes.</p> <p>7 Q Thank you.</p> <p>8 Reading through the incidents involving</p> <p>9 the use of the ECW in Exhibit 11, did it refresh</p> <p>10 your memory as to any of the officers involved?</p> <p>11 MR. PLUNKERT: Objection as to form. You</p> <p>12 may answer.</p> <p>13 A No.</p> <p>14 BY MR. JOHNSON:</p> <p>15 Q Now, the DOJ document we marked as</p> <p>16 Exhibit 11 does identify the FPD, Ferguson Police</p> <p>17 Department's, internal affairs files.</p> <p>18 Is that the same files that you testified</p> <p>19 to earlier today that you maintained in your office?</p> <p>20 A Yes, it is.</p> <p>21 Q So the DOJ representatives did review</p> <p>22 those?</p> <p>23 MR. PLUNKERT: Objection. Lack of</p> <p>24 foundation. You may answer.</p> <p>25</p>
<p style="text-align: right;">190</p> <p>1 would refresh your memory as to any of the facts and</p> <p>2 circumstances of any of the events we see in</p> <p>3 Exhibit 11?</p> <p>4 MR. PLUNKERT: Object to the form. You</p> <p>5 may answer.</p> <p>6 A No, I don't.</p> <p>7 BY MR. JOHNSON:</p> <p>8 Q Do you know whether -- let's start with</p> <p>9 the August 2010 event at the jail.</p> <p>10 Do you know whether the source of this</p> <p>11 would have been a citizen complaint or other source</p> <p>12 of information?</p> <p>13 MR. PLUNKERT: Objection. Lack of</p> <p>14 foundation. You may answer.</p> <p>15 A I do not know.</p> <p>16 BY MR. JOHNSON:</p> <p>17 Q The different ways that Ferguson</p> <p>18 memorializes their activity, one would be an offense</p> <p>19 report, correct?</p> <p>20 A Correct.</p> <p>21 Q If there's an incident involving a jail</p> <p>22 inmate, is that different than an incident</p> <p>23 involving, for example, a pedestrian on the street?</p> <p>24 Would there be a different form used for</p> <p>25 an offense report?</p>	<p style="text-align: right;">192</p> <p>1 BY MR. JOHNSON:</p> <p>2 Q Did they?</p> <p>3 A They received copies of all of them.</p> <p>4 Q Are you the one that provided copies to</p> <p>5 them?</p> <p>6 A Yes.</p> <p>7 Q Or your administrative assistant?</p> <p>8 A Yes.</p> <p>9 Q Do you know the scope in terms of time of</p> <p>10 the internal affairs files you provided to the DOJ?</p> <p>11 A I'm pretty sure I gave them everything I</p> <p>12 had.</p> <p>13 Q As of late 2014, do you know the scope</p> <p>14 temporally of what you had in your office of the</p> <p>15 internal affairs files, how many years back?</p> <p>16 A To 2010.</p> <p>17 Q To your start date?</p> <p>18 A Yes.</p> <p>19 Q Who maintains officers' workers'</p> <p>20 compensation paperwork at the Ferguson Police</p> <p>21 Department?</p> <p>22 A That would be human resources.</p> <p>23 Q City Hall?</p> <p>24 A HR, yes.</p> <p>25 Q And then when the DOJ refers to something</p>

<p style="text-align: right;">193</p> <p>1 known as the force files, do you know what they were</p> <p>2 referring to, Mr. Jackson?</p> <p>3 A No, I don't.</p> <p>4 Q I'm going to read the sentence just to</p> <p>5 give you the proper context.</p> <p>6 A Okay.</p> <p>7 Q "First, we located information in FPD's</p> <p>8 internal affairs files indicating instances of force</p> <p>9 that were not included in the force files provided</p> <p>10 by FPD."</p> <p>11 Does that refresh your memory as to what</p> <p>12 "force files" means as defined by the DOJ?</p> <p>13 MR. PLUNKERT: Do you mind telling me what</p> <p>14 page you're --</p> <p>15 MR. JOHNSON: Page 38, last paragraph of</p> <p>16 Exhibit 11.</p> <p>17 MR. PLUNKERT: Oh, yeah.</p> <p>18 MR. JOHNSON: Wrong big document.</p> <p>19 MR. PLUNKERT: How about Exhibit 11?</p> <p>20 Sound right?</p> <p>21 MS. SHAFARIE: Page 38.</p> <p>22 MR. JOHNSON: Page 38, bottom paragraph.</p> <p>23 MR. DOWD: Of Exhibit 11.</p> <p>24 MR. JOHNSON: Of Exhibit 11.</p> <p>25 MR. PLUNKERT: Do you remember his</p>	<p style="text-align: right;">195</p> <p>1 A As I said, we averaged about three a</p> <p>2 month.</p> <p>3 Q And the source or basis of that, would</p> <p>4 that be the use-of-force reports, the IA reports?</p> <p>5 A That would be the log, yes, the</p> <p>6 use-of-force reports.</p> <p>7 Q Okay. And similar to your internal</p> <p>8 affairs log or summary that was presented to</p> <p>9 Mr. Shaw, is there a use-of-force summary that</p> <p>10 Ferguson created over your time as chief?</p> <p>11 MR. PLUNKERT: Objection. Lack of</p> <p>12 foundation. You may answer.</p> <p>13 A Well, we were also required to provide</p> <p>14 that as part of the accreditation process, so</p> <p>15 Captain McBride would also get that information from</p> <p>16 me for his file.</p> <p>17 BY MR. JOHNSON:</p> <p>18 Q Thank you, sir.</p> <p>19 Do you know of any type of video, whether</p> <p>20 that be dash-cam video, body video, or Taser device</p> <p>21 video, that exists of the Moore incident in 2011?</p> <p>22 A None that I'm aware of.</p> <p>23 Q Were there forms of video that were used</p> <p>24 by your officers in 2011 as it relates to their</p> <p>25 patrol duties?</p>
<p style="text-align: right;">194</p> <p>1 question?</p> <p>2 A Yeah. Do I know specifically what they</p> <p>3 were referring to in "force files." I don't know</p> <p>4 how they classified things. It looks like they're</p> <p>5 talking about use-of-force reports.</p> <p>6 BY MR. JOHNSON:</p> <p>7 Q I think that may be true because the</p> <p>8 paragraph preceding refers to use-of-force reports,</p> <p>9 but I didn't know whether or not that was a term of</p> <p>10 art that you recall discussing with the DOJ, the</p> <p>11 word "force files."</p> <p>12 MR. PLUNKERT: Objection to form and</p> <p>13 foundation. You can answer.</p> <p>14 A I'm sorry, would you say that again?</p> <p>15 BY MR. JOHNSON:</p> <p>16 Q I'll withdraw it. I'll move on.</p> <p>17 A I was reading. Sorry.</p> <p>18 Q Do you disagree factually with their</p> <p>19 finding on the top of page 39 of Exhibit 11 that the</p> <p>20 use-of-force files typically reflect between two and</p> <p>21 six force incidents per month?</p> <p>22 A Yes.</p> <p>23 Q You disagree with that finding?</p> <p>24 A No, I do not.</p> <p>25 Q Okay.</p>	<p style="text-align: right;">196</p> <p>1 A No, there was not.</p> <p>2 Q Not even dash-cam video?</p> <p>3 A No.</p> <p>4 Q Okay. Do you know if it was protocol for</p> <p>5 officers to take any photographs as it relates to</p> <p>6 the use of force as of September 2011 in your</p> <p>7 department? As part of their investigation into the</p> <p>8 use of force, were photographs part of the process?</p> <p>9 A Required process, no.</p> <p>10 Q When the -- I'm on page 41, sir, of</p> <p>11 Exhibit 11.</p> <p>12 A Okay.</p> <p>13 Q When the DOJ notes that the two-page</p> <p>14 use-of-force report, meaning the supervisor's</p> <p>15 summary of the incident goes to the chief, do you</p> <p>16 disagree with that, that that was not your practice?</p> <p>17 A To get the use-of-force report?</p> <p>18 Q Well, that you only received the two-page</p> <p>19 supervisor's summary when you were reviewing use of</p> <p>20 force.</p> <p>21 A No. That's not true.</p> <p>22 Q You're saying you received other</p> <p>23 information?</p> <p>24 A Yes.</p> <p>25 Q So when they note that during some</p>

<p style="text-align: right;">197</p> <p>1 communication you apparently uttered to them that</p> <p>2 "Chief Jackson told us he rarely retrieves offense</p> <p>3 reports when reviewing use of force," that's not an</p> <p>4 accurate statement?</p> <p>5 A That is not an accurate statement.</p> <p>6 Q When they note in the report that "Chief</p> <p>7 Jackson told us he has never overturned a</p> <p>8 supervisor's determination of whether a use of force</p> <p>9 fell within with FPD policy," is that accurate or</p> <p>10 not?</p> <p>11 A I don't think so.</p> <p>12 Q So when have you overturned a supervisor's</p> <p>13 determination of whether a use of force fell within</p> <p>14 FPD policy?</p> <p>15 A I can't cite any specific example.</p> <p>16 Q Did the issuance of Exhibit 11, and while</p> <p>17 you were still chief, cause you to go back and</p> <p>18 review any incident where force was used?</p> <p>19 A I had gotten started on that process. I</p> <p>20 was looking to try to verify, confirm, or -- or</p> <p>21 otherwise review these findings.</p> <p>22 Q What efforts did you undertake, sir, to</p> <p>23 attempt to do that?</p> <p>24 A Just looked through my reports, my files,</p> <p>25 and we had lots of discussions among the officers.</p>	<p style="text-align: right;">199</p> <p>1 Exhibit 11 --</p> <p>2 A No.</p> <p>3 Q -- and based on what is contained in</p> <p>4 Exhibit 11?</p> <p>5 A No.</p> <p>6 Q Do you know if Mr. Shaw did that?</p> <p>7 A I don't.</p> <p>8 Q Did you meet with Mr. Shaw about the</p> <p>9 findings in Exhibit 11 while you were still both</p> <p>10 employed?</p> <p>11 A Yes.</p> <p>12 Q And what do you recall about that</p> <p>13 conversation?</p> <p>14 MR. PLUNKERT: Let me object to the extent</p> <p>15 that if this was a meeting that was directed by</p> <p>16 counsel for pending lawsuits, you might be</p> <p>17 getting into an area. So maybe if you can</p> <p>18 narrow the question, it might help, I guess.</p> <p>19 A Counsel was present during those.</p> <p>20 BY MR. JOHNSON:</p> <p>21 Q During all of them?</p> <p>22 Here's what I'm getting at. In the course</p> <p>23 of your status as him being a direct report and in</p> <p>24 the chain of command related to the business</p> <p>25 operations in the City of Ferguson, did you</p>
<p style="text-align: right;">198</p> <p>1 But a lot of this is unverified and unsubstantiated</p> <p>2 by their own statement.</p> <p>3 Q When we see a month and year attached to a</p> <p>4 certain event in Exhibit 11, would the sources, to</p> <p>5 the extent they exist, be the offense report?</p> <p>6 A I can't speak to what they did. They got</p> <p>7 everything we had.</p> <p>8 Q So we see all these dates and all these</p> <p>9 events that they claim occurred, and then you claim</p> <p>10 that you went back to try and undertake a review</p> <p>11 after the issuance of Exhibit 11.</p> <p>12 Did you actually locate any of these</p> <p>13 offense reports, citizen complaints, or other</p> <p>14 sources of information that would have enabled you</p> <p>15 to conduct a meaningful review of the facts and</p> <p>16 circumstances of when force was used?</p> <p>17 A I found one complaint, it wasn't a use of</p> <p>18 force, but found one complaint in there where they</p> <p>19 neglected to put in that the officers were</p> <p>20 disciplined for their verbal comments.</p> <p>21 Q Anything else, sir?</p> <p>22 A Nothing comes to mind.</p> <p>23 Q Did you yourself hand out any discipline,</p> <p>24 in accordance with your general order, to any member</p> <p>25 of the police department after your receipt of</p>	<p style="text-align: right;">200</p> <p>1 communicate with Mr. Shaw about the findings of the</p> <p>2 report?</p> <p>3 MR. PLUNKERT: Same thing if it's in the</p> <p>4 presence of counsel.</p> <p>5 You mean without counsel present and not</p> <p>6 directed by counsel?</p> <p>7 MR. JOHNSON: For business purposes only.</p> <p>8 MR. PLUNKERT: Okay.</p> <p>9 A No, we didn't talk about this outside of</p> <p>10 counsel. And I wasn't there much longer.</p> <p>11 BY MR. JOHNSON:</p> <p>12 Q This was issued March 4th, 2015. What was</p> <p>13 your last day of employment?</p> <p>14 A My official last day of employment was</p> <p>15 March 19th, I believe.</p> <p>16 Q When did you --</p> <p>17 A But I submitted my resignation, I think,</p> <p>18 around the 8th.</p> <p>19 Q Four days after the issuance of the</p> <p>20 report?</p> <p>21 A (Nods head.)</p> <p>22 Q Did you receive the report the same day</p> <p>23 it's dated?</p> <p>24 A I received the report the day before it</p> <p>25 was released.</p>

<p style="text-align: right;">201</p> <p>1 Q From who?</p> <p>2 A Christy Lopez.</p> <p>3 Q Was she the main investigator?</p> <p>4 A Yes.</p> <p>5 Q What did she tell you when she gave it to</p> <p>6 you?</p> <p>7 A And she was -- and her supervisor, John</p> <p>8 Smith, was also there.</p> <p>9 Q And what did the DOJ say to you when they</p> <p>10 provided the report to you, sir?</p> <p>11 THE WITNESS: Counsel was present at the</p> <p>12 time. Does it matter?</p> <p>13 MR. PLUNKERT: If the DOJ was present in</p> <p>14 the room with counsel, then you're free to</p> <p>15 answer.</p> <p>16 A Okay. They simply said that sometimes</p> <p>17 people with blindfolds putting their hands on an</p> <p>18 elephant can't tell it's an elephant, and so they</p> <p>19 were going to go through the report, which they did.</p> <p>20 We objected a great deal to what they had in it, but</p> <p>21 in the end they released it.</p> <p>22 BY MR. JOHNSON:</p> <p>23 Q Finally, on page 85, in the footnote on</p> <p>24 that page of Exhibit 11, sir, where we see the</p> <p>25 phrase in footnote 57, "Chief's log of internal</p>	<p style="text-align: right;">203</p> <p>1 A The log is -- is simply the log that I</p> <p>2 kept, which had every complaint number, complainant,</p> <p>3 officers complained against, and the finding. And</p> <p>4 that was a continuous document that went from 2010</p> <p>5 to when I left.</p> <p>6 Q Yes, sir.</p> <p>7 A The summaries were submitted annually,</p> <p>8 which was a summary of complaints throughout that</p> <p>9 year. My log was ...</p> <p>10 Q Your log was --</p> <p>11 A Five years.</p> <p>12 Q -- a living, breathing document?</p> <p>13 A Yes.</p> <p>14 Q I get it.</p> <p>15 Do you know of any efforts that Mr. Shaw</p> <p>16 undertook in an attempt to verify any of the factual</p> <p>17 circumstances contained in Exhibit 11?</p> <p>18 A No, not at the time.</p> <p>19 Q And when was his last day of employment</p> <p>20 vis-a-vis March 4th, 2015, that you know of?</p> <p>21 A It was not long after that.</p> <p>22 Q Do you disagree with the assertion that</p> <p>23 underreporting of use of force in the Ferguson</p> <p>24 Police Department is widespread?</p> <p>25 A No. I disagree with that. Is that what</p>
<p style="text-align: right;">202</p> <p>1 affairs," is that the log that you referred to in</p> <p>2 earlier testimony?</p> <p>3 MR. PLUNKERT: Objection. Lack of</p> <p>4 foundation. You may answer.</p> <p>5 A Yes.</p> <p>6 BY MR. JOHNSON:</p> <p>7 Q And is that the summary or is that the --</p> <p>8 a separate document?</p> <p>9 MR. PLUNKERT: Same objection. You may</p> <p>10 answer.</p> <p>11 A That's -- that's the log, not the summary.</p> <p>12 BY MR. JOHNSON:</p> <p>13 Q Okay. And I may be thickheaded about</p> <p>14 this, but explain for me the difference again.</p> <p>15 Because you would get the report with a</p> <p>16 number, the complaint, right?</p> <p>17 A Mm-hmm.</p> <p>18 Q Then there's a log and then there's a</p> <p>19 summary --</p> <p>20 MR. PLUNKERT: Is that a yes to his</p> <p>21 question?</p> <p>22 A Yes.</p> <p>23 BY MR. JOHNSON:</p> <p>24 Q Then explain for me the difference between</p> <p>25 log and summary.</p>	<p style="text-align: right;">204</p> <p>1 you asked me?</p> <p>2 Q That's what I asked.</p> <p>3 A I disagree.</p> <p>4 MR. JOHNSON: Take a short break.</p> <p>5 MR. PLUNKERT: Sure.</p> <p>6 MR. JOHNSON: Talk to Bill real quick.</p> <p>7 MR. PLUNKERT: Okay.</p> <p>8 THE VIDEOGRAPHER: We're off record at</p> <p>9 1:46.</p> <p>10 (Recess taken.)</p> <p>11 THE VIDEOGRAPHER: Back on record at 1:58.</p> <p>12 Please continue.</p> <p>13 BY MR. JOHNSON:</p> <p>14 Q Mr. Jackson, when you sent your summaries</p> <p>15 of the complaints for accreditation purposes, do you</p> <p>16 recall that testimony?</p> <p>17 A Yes.</p> <p>18 Q What entity did you send those to?</p> <p>19 A I didn't send them, I said I gave them to</p> <p>20 Captain McBride, because part of the accreditation</p> <p>21 process is that we maintain proofs that we're doing</p> <p>22 certain things, and that has to stay in a file in</p> <p>23 our accreditation office, basically. So that would</p> <p>24 have just gone into those -- those proof files in</p> <p>25 house.</p>

<p style="text-align: right;">205</p> <p>1 Q So were any of the complaints themselves, 2 the log of complaints, or the summaries of the 3 complaints ever sent to any type of accrediting 4 agency for its review? 5 A No. We wouldn't in any sense send them 6 things; they come and do an inspection is how it 7 works. 8 Q And what entity would that be? 9 A That would be the Missouri Police Chiefs 10 Charitable Foundation. 11 Q How about the Department of Public Safety? 12 Were they ever involved in the accreditation 13 process? 14 A No. 15 Q And who is the liaison or representative 16 with the Chiefs Foundation that Ferguson had 17 assigned? 18 A Well, the director there is Sheldon 19 Lineback, but I don't recall who -- who from there 20 Captain McBride was dealing with directly. 21 Q So two places, then, where this 22 information would be contained in summary form would 23 be Mr. McBride's office and your office? 24 A Yes. 25 MR. JOHNSON: I have no further questions.</p>	<p style="text-align: right;">207</p> <p>1 EXAMINATION 2 QUESTIONS BY MR. JOHNSON: 3 Q Who said that? 4 A I can't say with certainty. 5 Q Were the only two people present where 6 that statement could have been made the people you 7 understand to be Mr. Moore's spouse and his mother? 8 A Yes. 9 Q And no other persons? 10 A No. 11 Q And the meeting, was it only you and the 12 people you understood to be Mr. Moore's spouse and 13 his mother? 14 A That's correct. 15 MR. JOHNSON: I have no further questions. 16 Thank you for coming in today. Mr. Dowd might 17 have some. 18 EXAMINATION 19 QUESTIONS BY MR. DOWD: 20 Q Good afternoon, Mr. Jackson. My name is 21 Bill Dowd. I represent Tina Moore, the spouse 22 who -- of Mr. -- Mr. Moore. I'm going to ask you a 23 few questions. I'm going to do my best not to go 24 over anything we've covered, maybe a couple new 25 subjects, and just a couple followup questions on</p>
<p style="text-align: right;">206</p> <p>1 EXAMINATION 2 QUESTIONS BY MR. PLUNKERT: 3 Q And that was as of the date that you left, 4 right? 5 A Right. I -- I don't know where it is now. 6 Q The clarification, over the break it was 7 determined there was one question that you had an 8 additional response to. I think it had to do with, 9 oh, the statements that were made in the lobby of 10 the police department with the plaintiffs present, 11 is that right? 12 Is that what the substance was, that there 13 was some more information on it? 14 A Yes. The plaintiffs, yeah. 15 Q And, specifically, you -- you testified 16 that there wasn't anything more that was worth 17 repeating, but now you remember other information 18 worth repeating, correct? 19 A The one thing, yes. The one thing that -- 20 Q Go ahead. 21 A -- that the family stated was that the 22 reason Mr. Moore was behaving the way he was is 23 because he had just received the Holy Spirit, and 24 that's what you do when you receive the Holy Spirit. 25</p>	<p style="text-align: right;">208</p> <p>1 things you covered, all right? 2 When you went through the process of 3 obtaining Tasers for the use by the Ferguson Police 4 Department, you were obviously intimately involved 5 in that process, correct? 6 A Intimately I was -- I delegated that to 7 John Brannon, and he kept me apprised of the process 8 as it went along. 9 Q You were one of the leaders in the 10 decision to bring Tasers on board as a tool, 11 correct? 12 A That's true. 13 Q And the police department at Ferguson is 14 the one who actually trains the officers on the 15 levels of force that are permitted to be consistent 16 with your policies and the -- and the constitution, 17 correct? 18 A That's -- that's one entity, but the 19 police academy also offers -- 20 Q Right. 21 A -- such training. 22 Q Right. Fair enough. 23 So you relied on Taser International for 24 their product training just like you would rely on 25 the tear gas company or the Mace company to put</p>

<p style="text-align: right;">209</p> <p>1 warnings and say here's generally how it's to be 2 used, but when and how much it's used is controlled 3 by the police department training and any training 4 they had when they -- before they got to the police 5 department? 6 A To a large degree, yes. 7 Q Okay. So that's what I mean by the levels 8 of force. That's under the training and policies 9 and procedures of the police department, correct? 10 A Correct. 11 Q We talked a little earlier about crisis 12 intervention training -- 13 A Yes, sir. 14 Q -- and I want to broaden that just a 15 little bit and ask you what -- you've been an 16 officer a long time, including before you were the 17 chief. 18 What kind of people would you anticipate 19 your officers seeing on the street that may be in a 20 personal crisis or having an emotional crisis? 21 A Oh, that could be a wide variety of folks, 22 anywhere from people involved in domestic disputes 23 to people with organic brain disorders. 24 Q Okay. People in domestic disputes may not 25 be committing a crime except for disturbing the</p>	<p style="text-align: right;">211</p> <p>1 A I can't speak intelligently to those types 2 of things. 3 Q Let me just ask you, what is your 4 understanding of what excited delirium is? 5 A It's just a heightened state of agitation 6 where an individual could be -- could become 7 combative and violent. 8 Q And are they to be managed by the officers 9 within their CIT training, to your understanding? 10 MR. PLUNKERT: Objection. Lack of 11 foundation. You may answer. 12 A If possible. Officers always have to 13 consider safety of both themselves and the 14 individual. 15 BY MR. DOWD: 16 Q In a general sense, why is it important 17 from the -- as a chief of police, former chief of 18 police, and the police in general -- when I say 19 police, I'm talking about all law enforcement, from 20 the FBI, DEA, federal enforcement, county sheriffs, 21 city police, municipal police, highway patrol -- why 22 is it important, in your opinion, why they should 23 not use excessive force on -- on people? 24 MR. PLUNKERT: Objection. Lack of 25 foundation.</p>
<p style="text-align: right;">210</p> <p>1 peace because they're yelling at each other and an 2 officer is called to try to calm them down, right? 3 A Yes. 4 Q Okay. Other than people in domestic 5 situations and people with organic brain injuries, 6 can you think of any other people that are 7 commonly -- that the police have to commonly 8 confront that may not be committing a crime, per se, 9 but are more having a personal crisis? 10 A Well, sure. There's lots of situations, 11 you know, suicidal individuals, manic depre -- 12 bipolar individuals, people with various types of 13 psychosis. There's -- there's just a wide -- wide 14 variety. 15 Q And what is your understanding of what a 16 person who's suffering from excited delirium or 17 agitated delirium, would you agree that that's a 18 psychological or personal crisis -- 19 MR. PLUNKERT: Objection. 20 BY MR. DOWD: 21 Q -- as opposed to a crime? 22 MR. PLUNKERT: Objection. Lack of 23 foundation. 24 BY MR. DOWD: 25 Q If you know.</p>	<p style="text-align: right;">212</p> <p>1 BY MR. DOWD: 2 Q Let me rephrase the question. 3 Is it important that the law enforcement 4 officers, from the FBI, the DEA, all federal agents, 5 municipal police, highway patrolmen, county police, 6 sheriffs, why -- do you agree that it's important 7 that they not use excessive force on people? 8 MR. PLUNKERT: Objection. Form and 9 foundation. You may answer. 10 A Okay. Of course. Excessive force is not 11 allowed; that's why it's called excessive. 12 As I said previously, the ability -- or 13 the -- the authority to use force is one that comes 14 with a lot of responsibility and it's -- it's -- 15 that's why it's important to monitor it, use the 16 level of force necessary. 17 BY MR. DOWD: 18 Q Okay. On one -- one level it's because 19 it's illegal, right, to use excessive force, right? 20 21 MR. PLUNKERT: Objection. Foundation. 22 You may answer. 23 BY MR. DOWD: 24 Q Do you agree with that? 25 A Yes.</p>

<p style="text-align: right;">213</p> <p>1 Q Okay. But on the other part -- other side 2 of it is, not just because it's illegal, but people 3 can get hurt when officers use that authorized force 4 in an excessive way, in an unreasonably, unnecessary 5 way, correct? 6 MR. PLUNKERT: Objection. Lack of 7 foundation. You may answer. 8 BY MR. DOWD: 9 Q How long have you been a police officer? 10 A Thirty-six years. 11 Q Okay. So you know a little bit about 12 excessive force, right? 13 MR. PLUNKERT: Object to form. 14 A I've never killed anyone. 15 BY MR. DOWD: 16 Q I'm sorry? 17 A I've never killed anyone. But -- 18 Q Well, excessive force isn't only killing. 19 A Yeah, I understand that. I thought you 20 were referring to me personally. 21 Q My question is this, sir: The purpose of 22 you training and having policies on -- for your 23 officers to not use excessive force is to comply 24 with the law, number one, but number two is also to 25 protect members of the public from being injured by</p>	<p style="text-align: right;">215</p> <p>1 Q So if I understand what you just said, you 2 would concede that the police -- it's the police 3 department's obligation to train their officers on 4 how to safely apprehend people, including people in 5 personal crisis? 6 A Yes. 7 Q It's also, you would concede, that the 8 police department must supervise their officers on 9 how to safely help people who are in personal 10 crisis? 11 MR. PLUNKERT: Objection to foundation. 12 You may answer. 13 A Yes. 14 BY MR. DOWD: 15 Q That includes people that are -- have 16 mental health issues or engage in noncriminal 17 conduct or exhibiting erratic or bizarre behavior, 18 correct? 19 A Yes. 20 Q Now, with regard to the Taser, it's your 21 understanding on a general level that it's designed 22 to incapacitate a person so that the officer can 23 either gain compliance or handcuff them, correct? 24 MR. PLUNKERT: Objection. Foundation. 25 You may answer.</p>
<p style="text-align: right;">214</p> <p>1 an officer using excessive force? 2 A Yes, that's correct. 3 Q So these excessive-force laws that we've 4 been talking about and will talk about are designed, 5 at least partially, to protect the public from abuse 6 by the officers? 7 A Yes. 8 MR. PLUNKERT: Object to foundation. You 9 may answer. 10 BY MR. DOWD: 11 Q What types of statistics does the 12 department of Ferguson use, or did it use prior to 13 you leaving, in analyzing whether the members of the 14 force are using the appropriate level of force? 15 A Well, that's -- that's the use-of-force 16 policy and the use-of-force report. That's the -- 17 it's not the primary. The primary method is 18 supervisory oversight and peer oversight. So they 19 police each other, they're monitored by their 20 supervisors, but when they use force, it's reported 21 and investigated. 22 Q Okay. Do you use any statistics, do you 23 maintain any statistics, that we haven't talked 24 about today? 25 A None other than the ones we've discussed.</p>	<p style="text-align: right;">216</p> <p>1 BY MR. DOWD: 2 Q If you know. 3 A Yes, it is. 4 Q Designed to incapacitate, to make their 5 muscles flex and make them unable to resist for -- 6 while the trigger is being held, right? 7 A Again, I haven't had the -- 8 MR. PLUNKERT: Sorry. Same objections. 9 You may answer. 10 A I haven't had the Taser-specific training, 11 so I'm not going to try to testify to the specifics 12 of it, but it is designed to make the arrest 13 possible without injury to the officer or the 14 others. 15 BY MR. DOWD: 16 Q To the officer or others, including the 17 person being apprehended? 18 A The person being apprehended, yes. 19 THE COURT REPORTER: I'm sorry, you have 20 to go one at a time. "To the officer or 21 others." 22 BY MR. DOWD: 23 Q Including the person being apprehended, 24 that's correct? 25 A I agree with that.</p>

<p style="text-align: right;">217</p> <p>1 Q Okay. So the -- so the officer -- and you 2 would agree that any time an officer uses any level 3 of force, and I'm talking about from command 4 presence to soft hands on the subject, to Mace, to 5 baton, to Taser, any time an officer uses any -- any 6 of those levels of force, they have to allow a 7 reasonable time, give the person a chance to comply 8 with that order, correct? 9 MR. PLUNKERT: Objection to form and 10 foundation. You may answer. 11 MR. DOWD: May I ask Counsel what's the 12 matter with the foundation? The man's been a 13 police officer for 36 years; I think he knows a 14 little bit about the force continuum and how 15 it's to be used. 16 MR. PLUNKERT: Yes. It's vague and it's 17 an improper hypothetical because it doesn't 18 give enough facts for the witness to respond, 19 doesn't assist the jury to come to any 20 conclusion. It does -- reasonable time under 21 the -- I mean, I can go on if you want, but 22 there are several problems that I had with that 23 question. So if you can narrow it to make it 24 not so vague and if you can give facts 25 sufficient for the witness to -- if you want an</p>	<p style="text-align: right;">219</p> <p>1 MR. PLUNKERT: Same. 2 A That's what I'm talking about, yes. 3 Q Thank you. 4 THE WITNESS: Sorry. 5 MR. PLUNKERT: That's okay. Sorry. You 6 need to give me a second to say same. Sorry. 7 THE WITNESS: Four cups of coffee, I'm 8 just talking too fast. 9 BY MR. DOWD: 10 Q Are there any general orders or other 11 policies and procedures at Ferguson with regard to a 12 call related to a person who's having a personal 13 crisis, as we discussed earlier, to always wait for 14 backup before engaging that person, if possible, if 15 the circumstances allow it? 16 A I can't -- I can't cite the specific 17 general order, but there are policies and procedures 18 that address threat levels. 19 Q Okay. So if a person is in a static 20 situation, but the officer is going to need to deal 21 with them, if they have time to wait for a backup, 22 they should wait for a backup? 23 MR. PLUNKERT: Same objections. You may 24 answer. 25</p>
<p style="text-align: right;">218</p> <p>1 opinion, he hasn't been designated as such. 2 Now, to the extent that he eventually is 3 designated, I -- I suggest that sufficient 4 facts are given so that he can properly answer. 5 That's -- that's my objection. 6 BY MR. DOWD: 7 Q Do you recall the question? I will 8 rephrase it. 9 A Okay. 10 Q I'm asking you in a general sense, when an 11 officer determines to use some level of force, 12 whether it's command presence, whether it's soft 13 hands on the -- a person, baton or Mace or Taser, 14 that in a general sense the officer is required to 15 give the person an interval, a chance, to comply 16 with the order while they're -- before they use more 17 force or use a greater level of force? Would you 18 agree with that as a general proposition? 19 MR. PLUNKERT: Subject to the same 20 objections, you may answer. 21 A When -- when time allows, yes, of course. 22 BY MR. DOWD: 23 Q Okay. And when you say "time allows," 24 meaning depending on the level of threat that that 25 person is posing?</p>	<p style="text-align: right;">220</p> <p>1 BY MR. DOWD: 2 Q Fair statement? 3 A Yeah. It's situational in -- in that it's 4 hard to second-guess something that, you know, is 5 hypothetical, but it's -- it's preferred to have 6 backup. 7 Q Depending on the threat level that the 8 person is posing, correct? 9 MR. PLUNKERT: Same objections. Go ahead. 10 A That would be one factor, yes. 11 BY MR. DOWD: 12 Q Okay. What would be the other factors? 13 A The threat level -- 14 MR. PLUNKERT: Same objections. Sorry. 15 Go ahead. 16 A Threat level to one's self, the 17 environment. A lot of factors can go into that. 18 BY MR. DOWD: 19 Q I'm going to give you back Exhibit 9 from 20 earlier and ask you to turn to page 3 of that, 21 please. And there's a section called Limitations. 22 Do you see that? 23 A Yes, I do. 24 Q Would you just read that first sentence 25 into the record, please?</p>

<p style="text-align: right;">221</p> <p>1 MR. PLUNKERT: Bill, do you want to have 2 him use this Exhibit 9? 3 MR. DOWD: That's fine. 4 MR. PLUNKERT: I think you might have some 5 notes on yours. 6 MR. DOWD: That's fine. 7 A "Limitations. The X26 Taser will never be 8 deployed punitively or for purposes of coercion. It 9 is to be used" -- 10 BY MR. DOWD: 11 Q Okay. That's all I was asking you to 12 read, yeah. My question relates to that in the 13 context of, what is your understanding, and you tell 14 the jury what your understanding of pain compliance 15 is in the -- in a context of officers' use of force? 16 A Pain compliance is -- 17 MR. PLUNKERT: Lack of foundation. 18 Subject to that you can answer. 19 THE WITNESS: Sorry. 20 MR. PLUNKERT: No, that's okay. 21 BY MR. DOWD: 22 Q Do you understand the question? 23 A I do. Pain compliance is a term that's 24 been around for a while. It generally applies to -- 25 for -- to passive -- passive resistance type thing.</p>	<p style="text-align: right;">223</p> <p>1 Q It may have been -- do you believe you've 2 ever seen the police report in the Moore matter? 3 A Yes, I've seen the report. 4 Q You saw it maybe the last time in 5 September or October of 2011? 6 MR. PLUNKERT: Lack of foundation. You 7 may answer. 8 BY MR. DOWD: 9 Q Is that your belief? 10 A That's my belief. 11 Q Okay. Fair enough. 12 Have you spoken to anyone, other than your 13 attorneys, about your deposition today and the 14 circumstances surrounding the Moore case other than 15 what you've told us about in preparation for your 16 deposition? 17 A No. I haven't spoken to anybody about 18 this case other than my wife. 19 Q And do you -- as you sit here today, do 20 you have any opinions about how Officer Kaminski and 21 Officer White handled the situation with Mr. Moore 22 that morning? 23 MR. PLUNKERT: Let me object to lack of 24 foundation. Subject to that you may answer. 25 A Not being on the scene, I go by -- I have</p>
<p style="text-align: right;">222</p> <p>1 It's usually pressure point, that type of thing. 2 Q Okay. So per that general order that's 3 contained in Exhibit 9 regarding electronic 4 incapacitation devices, it says that "The X26 Taser 5 will never be deployed punitively or for purposes of 6 coercion," and that's another way of saying it's not 7 to be used for pain compliance, correct? 8 A Correct. 9 Q Can you tell us what you reviewed prior to 10 your deposition today, in preparation of your 11 deposition, whether it was today or yesterday or ... 12 MR. PLUNKERT: And to be clear, it's not 13 conversations that you had with attorneys, it's 14 just documents. Fair, Bill? 15 MR. DOWD: Yes, that's correct. 16 A I just generally reviewed the complaint. 17 BY MR. DOWD: 18 Q Just the complaint? 19 A The -- the lawsuit. 20 Q I'm sorry. You didn't review the police 21 report in this matter? 22 A No, I did not. 23 Q When is the last time you saw the police 24 report? 25 A Mr. Dowd, I have no idea. I don't know.</p>	<p style="text-align: right;">224</p> <p>1 to go by what my commanders conclude, and the 2 conclusion was that the amount of force used was the 3 amount necessary. 4 BY MR. DOWD: 5 Q And I'm asking you, is that your 6 opinion -- other than what your supervisors have 7 told you, do you have an independent opinion that 8 you're prepared to tell me about with regard to the 9 facts and circumstances of this case today that the 10 level of force was appropriate? 11 MR. PLUNKERT: Same objection. You can 12 answer. 13 A Nothing that's in conflict with that. 14 BY MR. DOWD: 15 Q Do you agree that the Moore scenario, as 16 you understand it, was not a situation that would 17 have justified the use of deadly force? 18 MR. PLUNKERT: Objection. Lack of 19 foundation. You may answer. 20 A I believe that's the case given that there 21 was less lethal options available. 22 BY MR. DOWD: 23 Q The man was naked, he was unarmed, weighed 24 135 pounds? 25 A Yes.</p>

<p style="text-align: right;">225</p> <p>1 Q Can you describe how large Officer 2 Kaminski is? 3 A He's a good-size man. 4 Q I think best estimate is he's six-two, 5 240? 6 A I don't know that he's 240. 7 MR. PLUNKERT: Lack of foundation, I 8 suppose. Go ahead. You may answer. 9 A They're all tall to me. 10 BY MR. DOWD: 11 Q Yeah. In 2011, if you recall. 12 A Yeah. He's -- he's probably around six, 13 six-two. 14 Q You touched earlier on the situation with 15 regard to the -- some changes in the general orders 16 because there was a change in the REJIS system that 17 you were associated with, and I've had some 18 conversation with your counsel, so this is sort of a 19 housekeeping thing, but I wanted to ask you what you 20 knew about -- we're looking for the CAD transcripts. 21 Do you know what those are? 22 A Yes. 23 Q How were those maintained at the 24 department when you were there? 25 A We had switched from I think it was</p>	<p style="text-align: right;">227</p> <p>1 Q And to your knowledge is he still employed 2 by Ferguson? 3 A He retired. 4 Q Do you recall there being a -- an issue 5 with the computer crashing after the conversion to 6 ITI or ITA? 7 A They had quite a few problems during the 8 conversion. 9 Q Were the transcripts kept in hard copy 10 anywhere, to your knowledge, the CAD transcripts? 11 A No, not to my knowledge. 12 Q Were your internal affairs reports that 13 you kept in your file drawer in your office, were 14 those scanned or kept anywhere other than in 15 hard-copy form? 16 A Just hard copy. 17 Q Do you know -- in our initial review of 18 the documents produced with regard to citizen 19 complaints, it appears they're all either right 20 before September 2011 or -- and by large majority 21 after that date. 22 Do you know what happened to the citizen 23 complaints prior to September of 2011? 24 A No. To the best of my knowledge, they 25 were in my -- in that file.</p>
<p style="text-align: right;">226</p> <p>1 new World Technologies over to ITI CAD. And 2 which -- which entry -- are you referring to the 3 dispatchers? 4 Q I'm trying to be as general as possible, 5 but yeah, tell me about the dispatchers first. 6 A Well, all our CAD information is kept on a 7 cloud. We don't store it in house anymore. 8 Q Okay. Prior -- so there was a conversion 9 in, let's say, 2012. Does that sound roughly close 10 to it? 11 A That sounds about right. 12 Q Okay. Who was responsible for that 13 conversion from the one software to the other? 14 A You mean the decision? 15 Q Yeah. Who are -- who was the individual 16 that was responsible, the IT person, presumably? 17 A Actually, our IT person was involved, but 18 we had someone in house that became very proficient 19 at the -- 20 Q And who was that? 21 A With the software and the technology. 22 Q And who is that? 23 A Sergeant Mike Wood. 24 Q The last name again, please? 25 A Wood.</p>	<p style="text-align: right;">228</p> <p>1 Q So to your knowledge there was no 2 intentional destruction of those? 3 A No. 4 Q What about the audiotapes? 5 What's your understanding of how long the 6 audiotapes are kept consistent with Ferguson police 7 policy? 8 A Again, we went to a digital -- not that 9 that changed policy. I want to say 90 days, but I 10 don't know if the digital system had a shorter cycle 11 on it. 12 Q All right. Do you agree that records 13 regarding citizen complaints could be relevant not 14 only to litigation brought by that complainant but 15 in other cases claiming municipal liability? 16 MR. PLUNKERT: Objection. Lack of 17 foundation, form. You may answer. 18 A Would you say that again? 19 BY MR. DOWD: 20 Q Sure. Do you understand citizen 21 complaints, the documents and the information 22 contained in those documents could be relevant to a 23 lawsuit or an investigation brought about that 24 incident as well as other incidents that might 25 relate to the City of Ferguson's liability?</p>

<p style="text-align: right;">229</p> <p>1 MR. PLUNKERT: Objection. Lack of -- lack 2 of foundation, form. You may answer. 3 A Yes. 4 BY MR. DOWD: 5 Q You understood the question? 6 A Yes, I did. 7 Q When you took over as the chief, did you 8 take all those supervisor complaints that had 9 been -- all the complaints that the supervisors had 10 previously kept, did you acquire those and put those 11 all in a central location? 12 A No. 13 Q Do you know what happened to those? I 14 know you changed -- let me ask a new question. 15 My understanding is you changed the way 16 and the location that those were collected and kept, 17 correct? 18 A Yes. 19 Q And do you know what happened to the prior 20 complaints that the supervisors previously 21 maintained in their office? 22 A No. I mean, they kept those, but moving 23 forward I created a central file, so they were all 24 in one place. 25 Q So the ones -- the complaint forms that</p>	<p style="text-align: right;">231</p> <p>1 to use of force and compliance. 2 An officer is permitted to use reasonable 3 force necessary under the circumstances to gain 4 compliance with his lawful orders, correct? 5 A Yes. 6 Q And when he does use that level of force, 7 he's required to allow that person some time to 8 comply with his orders, correct? 9 MR. PLUNKERT: Same objection, form and 10 foundation, as the last. Go ahead. 11 BY MR. DOWD: 12 Q And when I say "a reasonable time," it 13 means under the circumstances. Do you understand 14 that? 15 A Under the circumstances, yes. 16 Q Right. So I'm going to ask you, if a 17 person is on the ground, they've been tased, they've 18 been tased for six seconds, they're naked, they 19 don't have any weapons, there's no one within reach 20 to be grabbed or kicked or anything like that, how 21 much time would be reasonable to allow that person 22 to comply with the officer's orders to stay down, 23 for example? 24 MR. PLUNKERT: Object -- sorry. Are you 25 done with your question, Bill?</p>
<p style="text-align: right;">230</p> <p>1 came in after you were chief, you kept those, but 2 you did not keep the ones that were in existence 3 prior, you did not acquire and keep those, correct? 4 MR. PLUNKERT: Object to form. You can 5 answer. 6 THE WITNESS: Huh? 7 MR. PLUNKERT: I objected to form. You 8 can answer. 9 A No, I didn't -- I didn't collect those. 10 BY MR. DOWD: 11 Q So to your knowledge the last people in 12 possession of those would have been the two 13 supervisors, correct? 14 A Three. 15 Q Three. Are you including the third who is 16 in charge of the non-police-officer employees of the 17 city? 18 A Yes. 19 Q Okay. Did you tell us earlier who you 20 thought those supervisors were, their names? 21 A Captain Henke, Captain McBride, and 22 Lieutenant Nabdyk. 23 Q Thank you. 24 A Common spelling. N-a-b-d-z-y-k. 25 Q I want to go back, if I may, for a minute,</p>	<p style="text-align: right;">232</p> <p>1 MR. DOWD: Mm-hmm. 2 MR. PLUNKERT: Objection to form and 3 foundation. You may answer. 4 A Is this person continuing to be 5 aggressive? 6 BY MR. DOWD: 7 Q Attempting to get up. 8 MR. PLUNKERT: Same objections. 9 A A reasonable amount of time to comply 10 would be appropriate. 11 BY MR. DOWD: 12 Q Would that be less than one second after 13 the person -- after the Taser trigger was released? 14 A That would be -- 15 MR. PLUNKERT: Same -- same objections as 16 to form and foundation. You can answer. 17 A That would be completely situational. 18 I -- it would be way too hypothetical. 19 BY MR. DOWD: 20 Q Excuse me. Can you ever imagine a 21 situation where less than one second to comply with 22 the officer's orders would be sufficient time? 23 MR. PLUNKERT: Objection to form and 24 foundation. You may answer. 25 A I can't.</p>

<p style="text-align: right;">233</p> <p>1 BY MR. DOWD:</p> <p>2 Q Can you think of any situation in which an</p> <p>3 officer has just tased someone who's on the ground</p> <p>4 naked, without a weapon, where one second would be</p> <p>5 sufficient time for the officer to determine if he's</p> <p>6 getting compliance?</p> <p>7 MR. PLUNKERT: Same objection. You may</p> <p>8 answer.</p> <p>9 A I'd say I have to see the totality of the</p> <p>10 circumstances. I can't think of any.</p> <p>11 BY MR. DOWD:</p> <p>12 Q You can't think of any with the facts I've</p> <p>13 given you, that the person is naked, unarmed,</p> <p>14 there's no citizens within reach, the officer has</p> <p>15 just tased them and he's telling them to stay down</p> <p>16 and there's one second to comply? Is that a</p> <p>17 reasonable time, in your opinion?</p> <p>18 MR. PLUNKERT: Same objections. You may</p> <p>19 answer.</p> <p>20 A Under the circumstances it seems brief,</p> <p>21 that you've cited.</p> <p>22 BY MR. DOWD:</p> <p>23 Q It seems brief, meaning not enough time</p> <p>24 for the person to have a chance to comply?</p> <p>25 MR. PLUNKERT: Same objections. You may</p>	<p style="text-align: right;">235</p> <p>1 A I don't know if they were doing it online</p> <p>2 then.</p> <p>3 Q It's your belief, when you left as the</p> <p>4 chief, they were doing it online?</p> <p>5 A I believe so, yeah. My administrative</p> <p>6 assistant.</p> <p>7 Q Your administrative assistant did that?</p> <p>8 A She filed those reports, yeah.</p> <p>9 Q And what is her name? I'm sorry.</p> <p>10 A Mary Simmons.</p> <p>11 Q Mary Simms?</p> <p>12 A Simmons.</p> <p>13 Q Simmons. Thank you.</p> <p>14 A Yes, sir.</p> <p>15 Q How often would she enter those reports</p> <p>16 into the system? After each occurrence or on an</p> <p>17 annual basis?</p> <p>18 A No. No. It's a --</p> <p>19 MR. PLUNKERT: Foundation. You may</p> <p>20 answer.</p> <p>21 A I don't remember if it's quarterly or</p> <p>22 monthly, but ...</p> <p>23 BY MR. DOWD:</p> <p>24 Q But it wasn't after each incident, it was</p> <p>25 on some kind of a regular calendar basis?</p>
<p style="text-align: right;">234</p> <p>1 answer.</p> <p>2 A Again, with the circumstances you've given</p> <p>3 me, yes.</p> <p>4 BY MR. DOWD:</p> <p>5 Q Okay. Does the City of Ferguson Police</p> <p>6 Department submit information to the Federal Bureau</p> <p>7 of Justice Statistics regarding use of force or</p> <p>8 arrest-related deaths?</p> <p>9 A Yes, sir.</p> <p>10 Q What forms does it use to do that? Is it</p> <p>11 a portal you go onto and enter on a computer? Is it</p> <p>12 a preprinted form that you all fill out and send to</p> <p>13 a designated site?</p> <p>14 MR. PLUNKERT: Form and foundation. You</p> <p>15 may answer.</p> <p>16 BY MR. DOWD:</p> <p>17 Q If you know.</p> <p>18 MR. PLUNKERT: Same objections.</p> <p>19 A Yeah. It's -- the statistics are kept --</p> <p>20 I think they do it online now. I think they do it</p> <p>21 through a portal.</p> <p>22 BY MR. DOWD:</p> <p>23 Q So when you started at the department,</p> <p>24 Ferguson Police Department, were they doing those</p> <p>25 reports to the Bureau of Justice Statistics online?</p>	<p style="text-align: right;">236</p> <p>1 A Yes.</p> <p>2 Q I respect Counsel's objections, but I</p> <p>3 really only want you to tell me what you --</p> <p>4 reasonably was true, okay?</p> <p>5 A Yeah.</p> <p>6 Q And I think we had understood that, right?</p> <p>7 A Mm-hmm. Yes.</p> <p>8 MR. PLUNKERT: Although that calls for</p> <p>9 speculation as to what you understood. We're</p> <p>10 joking, no.</p> <p>11 BY MR. DOWD:</p> <p>12 Q In your 36 years as a police officer,</p> <p>13 including many years in command at the St. Louis</p> <p>14 County Police Department, would you agree that it</p> <p>15 would be rare for an officer who had, in fact,</p> <p>16 violated the policies and procedures of the</p> <p>17 department to write a fully detailed report</p> <p>18 admitting to facts that proved his own violation?</p> <p>19 MR. PLUNKERT: Form and foundation. You</p> <p>20 may answer.</p> <p>21 A What was the question again?</p> <p>22 BY MR. DOWD:</p> <p>23 Q In your 36 years as an officer, including</p> <p>24 as a command officer and the chief of police, wasn't</p> <p>25 it rare -- a rare occurrence that you would find an</p>

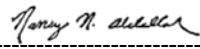
<p style="text-align: right;">237</p> <p>1 officer who would fill out a report that would 2 include all of the facts necessary to find them in 3 violation of the policies and procedures of his 4 department? 5 MR. PLUNKERT: Same objection. 6 A I expect the officers to fill out reports 7 that are fully factual. 8 BY MR. DOWD: 9 Q I didn't -- 10 A To do otherwise would be inappropriate. 11 Q I didn't mean to ask you what your 12 expectation was. What I meant to ask you was, in 13 your experience, how many times did you see a 14 report, a police report, in which the officer 15 included all of the facts necessary for him to be 16 found in violation of his department policies? 17 A Many times. 18 MR. PLUNKERT: Objection. Foundation. 19 BY MR. DOWD: 20 Q Many times? 21 A Yes. 22 Q Can you give us some examples? 23 A Not any specific examples, but officers 24 often have been disciplined based on their own 25 reporting of their actions.</p>	<p style="text-align: right;">239</p> <p>1 A Yes. 2 Q Do you know where that CAD Detail 3 information comes from? 4 A From -- from dispatch. 5 Q And then we talked earlier about where the 6 actual dispatch transcripts might be. Do you recall 7 that? 8 A Yes. 9 Q Is there other information on the CAD 10 transcript other than times? Is there narrative on 11 there as to what was being said actually? 12 A Very briefly. 13 Q Such as "Officer Dispatched," period? 14 A Yes. 15 Q "Officer Arrives," period? 16 A Yes. 17 Q So that would be a timeline of what -- 18 when people were arriving at the scene, when people 19 were dispatched to the scene, when people left the 20 scene, correct? 21 A Yes. 22 Q Is that an actual transcript of a tape 23 that -- of the voices of the people on the radio 24 system or is it something that is typed in with some 25 sort of preapproved language, like "Left Scene,</p>
<p style="text-align: right;">238</p> <p>1 Q Would you agree, sir, that it's more 2 common that they're disciplined based on the 3 statements and reports of others than they are on 4 their own admissions? 5 MR. PLUNKERT: Lack of foundation. You 6 may answer. 7 BY MR. DOWD: 8 Q In your experience. 9 A Yeah. Yes. 10 MR. DOWD: Let's go off the record for a 11 second, please. 12 THE VIDEOGRAPHER: We're off the record at 13 2:34. 14 (Recess taken.) 15 THE VIDEOGRAPHER: Back on record at 2:37. 16 BY MR. DOWD: 17 Q Sir, I've given you the front page of the 18 police report in this case, which is Ferguson Bates 19 number 0008. Just for reference to that form, on 20 the top left do you see where it says "CAD Detail"? 21 A Yes. 22 Q And do you know where that information 23 comes from? There's -- there's then a date and a 24 time right after that, right below that. Do you see 25 it?</p>	<p style="text-align: right;">240</p> <p>1 Arrived at Scene"? 2 A This would be typed in. The dispatcher 3 would get the call and would be entering the 4 information into the CAD system as it was coming -- 5 Q Right. 6 A -- and the time that she was making that 7 entry would be recorded with that entry. 8 Q Right. So the time is -- go ahead, sir. 9 A The recordings would be on a separate 10 system -- 11 Q Okay. 12 A -- that's not tied to the CAD system. 13 Q There's no policy or procedure at the 14 Ferguson Police Department -- there was not when you 15 were chief -- that if somebody died during an arrest 16 that they would keep the CAD transcripts, the 17 dispatch tapes, and other things separately as part 18 of an investigation or a later investigation? 19 A If the -- if the tapes were requested, 20 then they would be retained. 21 Q But there was no policy they would just 22 automatically retain them in the event there was a 23 later investigation as to the cause of death? 24 A Not that I'm aware of. 25 Q Have all of the answers you've given us</p>

<p style="text-align: right;">241</p> <p>1 today been to your best belief?</p> <p>2 A Yes.</p> <p>3 MR. DOWD: I don't have any further</p> <p>4 questions. Thank you, sir.</p> <p>5 THE WITNESS: Thank you, sir.</p> <p>6 EXAMINATION</p> <p>7 QUESTIONS BY MR. PLUNKERT:</p> <p>8 Q Very briefly, a couple of followups.</p> <p>9 Do you remember earlier there was a</p> <p>10 question about whether the -- the department --</p> <p>11 police department for the City of Ferguson was</p> <p>12 equipped with pepper spray or Tasers? Do you</p> <p>13 remember that?</p> <p>14 A Yes.</p> <p>15 Q And you said it was, correct?</p> <p>16 A Yes.</p> <p>17 Q Does every officer then use or take with</p> <p>18 them the Taser or pepper spray when they go out on</p> <p>19 patrol?</p> <p>20 A No. And as I said, when we started there</p> <p>21 we didn't have Tasers and I had to piecemeal buy</p> <p>22 them. So the first batch we bought, I think we</p> <p>23 bought five. And so it wasn't everybody that was</p> <p>24 able to carry one.</p> <p>25 Q So in other words, if qualified -- or</p>	<p style="text-align: right;">243</p> <p>1 your attorney, correct?</p> <p>2 A Yes.</p> <p>3 Q And also the city has counsel, Stephanie</p> <p>4 Karr, to the extent that if you wanted to seek legal</p> <p>5 advice you could go to Stephanie Karr for that,</p> <p>6 correct?</p> <p>7 A Yes.</p> <p>8 Q And that included if you had any questions</p> <p>9 regarding the Department of Justice investigation,</p> <p>10 correct?</p> <p>11 A Yes.</p> <p>12 Q You have been asked questions regarding</p> <p>13 training by the City of Ferguson. Do you recall</p> <p>14 that?</p> <p>15 A Yes.</p> <p>16 Q Okay. Could you -- could you describe --</p> <p>17 well, P.O.S.T., what is P.O.S.T.?</p> <p>18 A It's the standard by -- police officers</p> <p>19 standards training. And it's the standard by which</p> <p>20 the state -- most states certify officers, license</p> <p>21 them, if you were. So it's initial training that's</p> <p>22 required, and then it's ongoing on-the-job or</p> <p>23 in-service or in-academy training where there's a</p> <p>24 minimum amount of training that's required over a</p> <p>25 three-year period.</p>
<p style="text-align: right;">242</p> <p>1 certified, I should say, to carry it, it was an</p> <p>2 option to the officers, correct?</p> <p>3 A Yes.</p> <p>4 Q You were asked earlier a question</p> <p>5 regarding the -- whether the totality of the</p> <p>6 circumstances contemplated the mental state of the</p> <p>7 suspect or subject. Do you recall that?</p> <p>8 A I do.</p> <p>9 Q Okay. And does that -- with respect to</p> <p>10 the totality of the circumstances, that's with</p> <p>11 respect to what the officer knows at the time the</p> <p>12 officer confronts the subject or suspect?</p> <p>13 A Yes, that's correct.</p> <p>14 Q The -- there was a question regarding the</p> <p>15 city attorneys -- actually, I'm sorry -- with</p> <p>16 respect to the Department of Justice, whether you</p> <p>17 were personally represented by counsel.</p> <p>18 Do you recall that question?</p> <p>19 A Yes, I do.</p> <p>20 Q And you were not personally represented by</p> <p>21 counsel regarding the Department of Justice</p> <p>22 proceeding specifically, correct?</p> <p>23 A That's correct.</p> <p>24 Q However, you are represented by attorneys,</p> <p>25 at least by some matters that are involved, me being</p>	<p style="text-align: right;">244</p> <p>1 Q And that minimum amount of training, at</p> <p>2 least with respect to P.O.S.T., is managed by the</p> <p>3 state of Missouri, correct?</p> <p>4 A Yes.</p> <p>5 Q And Ferguson complies with the P.O.S.T.</p> <p>6 requirements, correct?</p> <p>7 A Yes.</p> <p>8 Q And with respect to your officers while</p> <p>9 you were chief at the City of Ferguson, you required</p> <p>10 your officers to comply with the hours required by</p> <p>11 P.O.S.T., correct?</p> <p>12 A Yes.</p> <p>13 Q And specifically that was the training</p> <p>14 which the officers were to maintain in order to keep</p> <p>15 their licensure and also their employment as a</p> <p>16 police officer with the City of Ferguson, correct?</p> <p>17 A Yes.</p> <p>18 Q Again, that was state required, right?</p> <p>19 A Yes, it is.</p> <p>20 MR. PLUNKERT: Those were the questions</p> <p>21 that I had.</p> <p>22 EXAMINATION</p> <p>23 QUESTIONS BY MR. DOWD:</p> <p>24 Q Okay. Just two followups, sir, if I may.</p> <p>25 Just so I'm clear, counsel asked you</p>

<p style="text-align: right;">245</p> <p>1 something about officers, when they start their 2 shift, would have Tasers or pepper spray, not -- 3 never both? 4 A No, that's not correct. They could have 5 both. 6 Q Okay. 7 A They wouldn't necessarily have a Taser. 8 Q Understood. So kind of is it safe to say 9 logically that they would all have Mace and some 10 would have Taser when they went out on their shift 11 in September of 2011? 12 MR. PLUNKERT: Object to foundation. You 13 may answer. 14 BY MR. DOWD: 15 Q I say -- keep saying Mace, but Mace and 16 pepper spray are the same thing? 17 A Yes. 18 Q Okay. 19 MR. PLUNKERT: Same objection. 20 A For these purposes. 21 BY MR. DOWD: 22 Q Yeah. 23 A But as part of their assigned equipment 24 pepper spray was assigned to officers. 25 Q All right. So what other tools would he</p>	<p style="text-align: right;">247</p> <p>1 Q And officers that are certified by 2 P.O.S.T. are all trained in hand-to-hand combat, 3 correct? 4 A To some degree, yes. 5 Q And all use-of-force options have positive 6 features and negative features, correct? 7 A Yes. 8 MR. PLUNKERT: Lack of foundation. Go 9 ahead. 10 BY MR. DOWD: 11 Q And I've learned -- my understanding 12 anyway, for example, pepper spray or Mace, you know, 13 officers don't like to use it if they're in a 14 confined space with someone because they might get 15 it in their own eyes, correct? 16 A Correct. 17 Q You understand that the Moore incident 18 happened outside in a wide-open area, correct? 19 A Yes. 20 Q What are the downsides of using pepper 21 spray with somebody who is in an agitated state? 22 MR. PLUNKERT: Object to foundation. You 23 can answer. 24 BY MR. DOWD: 25 Q If you know after 36 years of police --</p>
<p style="text-align: right;">246</p> <p>1 have had on his belt, Officer Kaminski, on 2 September 11th? He would have had pepper spray, a 3 Taser, a revolver or a sidearm, right? 4 MR. PLUNKERT: Let me object that that -- 5 if your question is done, lack of foundation. 6 You may answer. 7 BY MR. DOWD: 8 Q Let me say, as part of the policies and 9 procedures, your expectation would be that an 10 officer going on duty in September of 2011 would 11 have pepper spray, correct? 12 A Yes. 13 Q He would have -- could have a Taser? 14 A Yes. 15 Q Would have a gun? 16 A Yes. 17 Q What else would he have as far as 18 use-of-force tools at his disposal? 19 A Beyond that would be the handcuffs and the 20 magazines for the pistol. 21 Q What about batons? 22 A Some could have a baton. 23 Q Of course they always had their open 24 hands, correct, and their feet? 25 A Yes, sir.</p>	<p style="text-align: right;">248</p> <p>1 A Yeah. Pepper spray -- 2 MR. PLUNKERT: Form as well. Go ahead. 3 A Pepper spray is often, in my experience 4 and experience of others, less effective on someone 5 in a highly agitated state. It's more for a lower 6 level of aggression and, for example, passive 7 resistance, you know, those situations. 8 BY MR. DOWD: 9 Q What is the effect of pepper spray? I've 10 luckily never had it used on me. Have you 11 experienced it in your training? 12 A Oh, yeah. Oh, yeah. Yes. I was an 13 instructor when I was on the SWAT Team when we first 14 got the pepper spray, and so we all had to get 15 sprayed. 16 Q And what is the effect on your ability to 17 engage in a combat after being pepper sprayed in the 18 eyes? 19 A Well, that's -- that's part of the 20 training, is to get pepper sprayed and to continue 21 to fight. 22 Q Okay. Are you as good a fighter with 23 pepper spray in your eyes as before you had it? 24 A In a lot more pain -- 25 Q Yeah.</p>

<p style="text-align: right;">249</p> <p>1 A -- but no.</p> <p>2 Q Understood. But it makes it more</p> <p>3 difficult to see, correct?</p> <p>4 A Yes.</p> <p>5 Q Any other -- any other negatives in using</p> <p>6 pepper spray besides the risk that the officer might</p> <p>7 get it in their own eyes while they're trying to do</p> <p>8 their job?</p> <p>9 A That's a big -- big risk of it, but the</p> <p>10 other factors, as I said, no.</p> <p>11 Q Okay. And did the Ferguson Police</p> <p>12 Department consider the risks of any side effects,</p> <p>13 like cardiac arrest or anything, when they were</p> <p>14 advising their officers when using pepper spray or</p> <p>15 Mace?</p> <p>16 MR. PLUNKERT: Object to the form and</p> <p>17 foundation. You may answer.</p> <p>18 A The officers are always prepared to render</p> <p>19 first aid if necessary. It's -- it's a given, as we</p> <p>20 said before, that these are called less lethal</p> <p>21 weapons, not nonlethal weapons.</p> <p>22 BY MR. DOWD:</p> <p>23 Q Not what weapons?</p> <p>24 A Nonlethal.</p> <p>25 MR. DOWD: Okay. I don't have any further</p>	<p style="text-align: right;">251</p> <p>1 chief in Ferguson and from your own personal</p> <p>2 involvement, not the involvement of others, did you</p> <p>3 attempt to comply with the use-of-force report</p> <p>4 reviews that you were asked to review?</p> <p>5 A Yes.</p> <p>6 Q I mean, it's not an obligation you</p> <p>7 ignored, was it?</p> <p>8 A No.</p> <p>9 Q And the report forms that were completed</p> <p>10 and presented to you, did you attempt to fairly and</p> <p>11 accurately evaluate whether the force used was</p> <p>12 appropriate?</p> <p>13 A Yes, I did.</p> <p>14 Q When we see different occasions contained</p> <p>15 in the DOJ report where there was force used under</p> <p>16 any form of force, do you have any reason to believe</p> <p>17 that you would not have reviewed those reports in</p> <p>18 your day-to-day activities as police chief at the</p> <p>19 time?</p> <p>20 MR. PLUNKERT: Form and foundation. You</p> <p>21 may answer.</p> <p>22 A I can't qualify what's in that report.</p> <p>23 BY MR. JOHNSON:</p> <p>24 Q The anecdotal information that was</p> <p>25 identified in the DOJ report, such as in August of</p>
<p style="text-align: right;">250</p> <p>1 questions of this witness. Do you?</p> <p>2 MR. JOHNSON: A little bit. Not much.</p> <p>3 MR. DOWD: Thank you, sir, for your time</p> <p>4 today.</p> <p>5 THE WITNESS: Thank you, sir.</p> <p>6 EXAMINATION</p> <p>7 QUESTIONS BY MR. JOHNSON:</p> <p>8 Q Mr. Jackson, I want to refer you one more</p> <p>9 time back to the DOJ report which we marked as</p> <p>10 Exhibit 11, and I don't have anything specific to</p> <p>11 any page number, I kind of have a catch-all</p> <p>12 question.</p> <p>13 During the period of time that you were</p> <p>14 chief of police in Ferguson and from your own</p> <p>15 perspective and your own involvement, did you</p> <p>16 attempt to follow the review of any use-of-force</p> <p>17 reports that were sent to you for review? From your</p> <p>18 own perspective and your own involvement.</p> <p>19 MR. PLUNKERT: I apologize, could you</p> <p>20 repeat the question for my benefit, see if I</p> <p>21 can object.</p> <p>22 MR. JOHNSON: Let me rephrase it. Let me</p> <p>23 rephrase it.</p> <p>24 BY MR. JOHNSON:</p> <p>25 Q During the period of time you were police</p>	<p style="text-align: right;">252</p> <p>1 2010 we had the incident with the bracelets,</p> <p>2 remember, in the jail?</p> <p>3 A Yes.</p> <p>4 Q So when you're looking through examples</p> <p>5 like that, is that news to you?</p> <p>6 Is that something where you reviewed it</p> <p>7 and said, "I didn't even know about that event"?</p> <p>8 MR. PLUNKERT: Object to form. Go ahead.</p> <p>9 A Yeah. When I -- when I read something</p> <p>10 like that, I question the context, I question the</p> <p>11 thoroughness of the review. That is absurd to think</p> <p>12 that something like that happened and it's certainly</p> <p>13 not something I would have overlooked.</p> <p>14 BY MR. JOHNSON:</p> <p>15 Q That would be unconstitutional, wouldn't</p> <p>16 it?</p> <p>17 MR. PLUNKERT: Objection. Foundation. Go</p> <p>18 ahead, you may answer. And form. Go ahead,</p> <p>19 you may answer.</p> <p>20 A To tase someone for not taking their</p> <p>21 bracelets off, yeah.</p> <p>22 BY MR. JOHNSON:</p> <p>23 Q Especially in stun drive?</p> <p>24 A Yeah.</p> <p>25 MR. PLUNKERT: Same.</p>

<p style="text-align: right;">253</p> <p>1 BY MR. JOHNSON:</p> <p>2 Q So going back to my earlier question,</p> <p>3 then, just based on the -- whether you disagree with</p> <p>4 the context of it, seeing that there was a report of</p> <p>5 somebody injured in the jail due to a use of a Taser</p> <p>6 application in August of 2010, I think I read that</p> <p>7 correctly, if you were following your review</p> <p>8 procedures for use-of-force report forms, any reason</p> <p>9 not to believe you would have reviewed some</p> <p>10 use-of-force report back when this occurred, whether</p> <p>11 or not you agree or disagree it was appropriate?</p> <p>12 MR. PLUNKERT: Objection. Form and</p> <p>13 foundation. You may answer.</p> <p>14 A Yes, I would have reviewed it. That</p> <p>15 doesn't even state if it was one of my officers.</p> <p>16 BY MR. JOHNSON:</p> <p>17 Q Certainly.</p> <p>18 So applying that rationale, then, to each</p> <p>19 of the different occasions where we see some form of</p> <p>20 force used against some citizen, any reason not to</p> <p>21 believe that if you were following your -- your</p> <p>22 review portion of the use-of-force report forms, you</p> <p>23 would have reviewed all these reports back when they</p> <p>24 occurred?</p> <p>25 MR. PLUNKERT: Same objections. You can</p>	<p style="text-align: right;">255</p> <p>1 MR. JOHNSON: I don't have any further</p> <p>2 questions. Thank you for your time, sir.</p> <p>3 EXAMINATION</p> <p>4 QUESTIONS BY MR. DOWD:</p> <p>5 Q If I could just ask one followup, sir.</p> <p>6 After you received the Department of</p> <p>7 Justice report, did you go back and look at any of</p> <p>8 these incidents? Did you go back and say, "I don't</p> <p>9 remember this, I can't believe this happened," and</p> <p>10 go pull your IAD file or ask -- go back and look at</p> <p>11 the records or investigate yourself how --</p> <p>12 A Yes.</p> <p>13 MR. PLUNKERT: Let me interpose an</p> <p>14 objection. You know, to the extent that</p> <p>15 counsel advised you to do such, that is -- that</p> <p>16 is -- well, I guess if I were to understand the</p> <p>17 question correctly, you're asking for the</p> <p>18 regular business purpose --</p> <p>19 MR. DOWD: Yes.</p> <p>20 MR. PLUNKERT: -- and not at the</p> <p>21 instruction of counsel?</p> <p>22 MR. DOWD: Absolutely.</p> <p>23 MR. PLUNKERT: Okay. With that qualifier,</p> <p>24 you may answer.</p> <p>25 A Yeah. Well, for my own benefit I --</p>
<p style="text-align: right;">254</p> <p>1 answer.</p> <p>2 BY MR. JOHNSON:</p> <p>3 Q Right?</p> <p>4 A Yes.</p> <p>5 Q And do you ever recall, after reviewing a</p> <p>6 use-of-force report form, where you went back and</p> <p>7 disciplined the officer involved?</p> <p>8 A I don't remember any specific example.</p> <p>9 Q And after reviewing any use-of-force</p> <p>10 report form, do you recall ever endeavoring to alter</p> <p>11 the training given to your officers in that use of</p> <p>12 force?</p> <p>13 MR. PLUNKERT: Object to the form. You</p> <p>14 may answer.</p> <p>15 A I pretty much tripled the amount of</p> <p>16 training that officers were receiving in Ferguson.</p> <p>17 We provided training in all types of facets of</p> <p>18 police work, so ...</p> <p>19 BY MR. JOHNSON:</p> <p>20 Q And specifically the facet of police work</p> <p>21 that would deal with the application and use of a</p> <p>22 Taser ECW, do you ever recall altering the trainings</p> <p>23 after you reviewing a use-of-force report?</p> <p>24 A I don't specifically remember any -- any</p> <p>25 instant.</p>	<p style="text-align: right;">256</p> <p>1 BY MR. DOWD:</p> <p>2 Q Right.</p> <p>3 A -- went back and for the amount of time</p> <p>4 that I was still there looked at -- looked up many</p> <p>5 examples, and we objected to some of this stuff</p> <p>6 initially.</p> <p>7 Q In writing, sir?</p> <p>8 A Hmm?</p> <p>9 Q In writing you objected?</p> <p>10 A No.</p> <p>11 Q Okay. I'm just --</p> <p>12 A No, I didn't. But as I said, they were</p> <p>13 half stories and specious conclusions that they were</p> <p>14 making. Their lack of knowledge of police work was</p> <p>15 apparent when they told us that if we have a</p> <p>16 burglary in progress that we shouldn't use a canine</p> <p>17 to make an apprehension unless we're certain that</p> <p>18 the individual inside is armed.</p> <p>19 Those are the types of things that -- you</p> <p>20 know, the conclusions that they were making. So</p> <p>21 they were -- that's simply an officer safety issue.</p> <p>22 Q So they were giving you their assessment</p> <p>23 of the appropriate level of force that they</p> <p>24 thought --</p> <p>25 A One of the --</p>

<p style="text-align: right;">257</p> <p>1 MR. PLUNKERT: Wait. Wait. Wait. Let 2 me -- go ahead and ask the full question. Let 3 him ask his question. 4 BY MR. DOWD: 5 Q You were disagreeing with their opinion 6 that the use of the dog on a burglary in progress 7 was excessive force, in their opinion, and you 8 thought it was an officer safety issue? 9 A Yes. 10 MR. DOWD: I don't have anything further. 11 MR. PLUNKERT: No. We'll read. 12 THE VIDEOGRAPHER: This will conclude 13 today's deposition of Chief Thomas Jackson. 14 We're off the record at 2:55. Thank you all 15 very much. 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">259</p> <p>1 set forth the testimony of the aforementioned 2 witness, together with the questions propounded by 3 counsel and remarks and objections of counsel 4 thereto, and is in all respects a full, true, 5 correct and complete transcript of the questions 6 propounded to and the answers given by said witness; 7 that signature of the deponent was not waived by 8 agreement of counsel. 9 I further certify that I am not of counsel or 10 attorney for either of the parties to said suit, not 11 related to nor interested in any of the parties or 12 their attorneys. 13 Witness my hand and notarial seal at St. Louis, 14 Missouri, this 27th day of September, 2015. 15 My Commission expires April 26, 2016. 16 17  18 19 COMMISSION NUMBER I2513162 20 Notary Public in and for the 21 State of Missouri 22 23 24 25</p>
<p style="text-align: right;">258</p> <p>1 State of Missouri 2 SS. 3 County of St. Louis 4 I, Nancy N. Abdallah, RPR, MO-CCR #888, IL-CSR 5 #084-004460, and Notary Public in and for the State 6 of Missouri, duly commissioned, qualified and 7 authorized to administer oaths and to certify to 8 depositions, do hereby certify that pursuant to 9 Notice in the civil cause now pending and 10 undetermined in the United States District Court, 11 For the Eastern District of Missouri, Eastern 12 Division, to be used in the trial of said cause in 13 said court, I was attended at the offices of Pitzer 14 Snodgrass, P.C., 100 South Fourth Street, Suite 400, 15 in the City of St. Louis, State of Missouri, by the 16 aforesaid attorneys; on the 18th day of September, 17 2015. 18 The said witness, being of sound mind and being 19 by me first carefully examined and duly cautioned 20 and sworn to testify the truth, the whole truth, and 21 nothing but the truth in the case aforesaid, 22 thereupon testified as is shown in the foregoing 23 transcript, said testimony being by me reported in 24 shorthand and caused to be transcribed into 25 typewriting, and that the foregoing page correctly</p>	<p style="text-align: right;">260</p> <p>1 GorePerry Reporting & Video 2 Monday, September 28, 2015 3 4 Mr. Robert T. Plunkert, Esq. 5 Pitzer Snodgrass 6 100 South Fourth Street Suite 400 7 St. Louis, MO, 63102 8 Re: Deposition of Thomas Jackson 9 Date: Friday, September 18, 2015 10 Case: Tina Moore, et al. vs. 11 Brian Kaminski, et al. 12 13 Mr. Robert T. Plunkert, Esq. 14 Your witness did not waive the right to read and sign 15 his/her deposition in the above referenced matter. 16 Enclosed is the copy of the deposition you ordered, 17 together with errata sheets and additional signature 18 page. Please instruct your witness to read the 19 transcript, list any corrections (including page and 20 line number) on the errata sheets, sign and date the 21 errata sheets and signature page. 22 23 Within 30 days, please return the errata sheets and 24 signature page to our office for further processing. 25 Your prompt cooperation will be appreciated. 26 27 28 29 Sincerely, 30 31 Production Department 32 GorePerry Reporting & Video 33 515 Olive Street 34 St. Louis, MO 63101 35 (314) 241-6750</p>

<p style="text-align: right;">261</p> <p>1 Page Line Should Read: 2 Reason for change: 3 4 Page Line Should Read: 5 Reason for change: 6 7 Page Line Should Read: 8 Reason for change: 9 10 Page Line Should Read: 11 Reason for change: 12 13 Page Line Should Read: 14 Reason for change: 15 16 Page Line Should Read: 17 Reason for change: 18 19 Page Line Should Read: 20 Reason for change: 21 22 Page Line Should Read: 23 Reason for change: 24 25</p>	<p style="text-align: right;">263</p> <p>1 Comes now the witness, Thomas Jackson, 2 and having read the foregoing transcript 3 of the deposition taken on 9/18/2015, 4 acknowledges by signature hereto that it is a 5 true and accurate transcript of the testimony given 6 on the date hereinabove mentioned. 7 8 9 10 _____ 11 Thomas Jackson 12 13 Subscribed and sworn to me before this 14 day of _____, 20____. 15 My Commission expires 16 17 18 _____ 19 Notary Public 20 21 22 23 24 25</p>
<p style="text-align: right;">262</p> <p>1 Page Line Should Read: 2 Reason for change: 3 4 Page Line Should Read: 5 Reason for change: 6 7 Page Line Should Read: 8 Reason for change: 9 10 Page Line Should Read: 11 Reason for change: 12 13 Page Line Should Read: 14 Reason for change: 15 16 Page Line Should Read: 17 Reason for change: 18 19 Page Line Should Read: 20 Reason for change: 21 22 Page Line Should Read: 23 Reason for change: 24 25</p>	<p style="text-align: right;">264</p> <p>1 COURT MEMO 2 3 4 5 Tina Moore, et al. vs. Brian Kaminski, et al. 6 7 8 CERTIFICATE OF OFFICER AND 9 STATEMENT OF DEPOSITION CHARGES 10 11 DEPOSITION OF Thomas Jackson 12 13 9/18/2015 14 Name and address of person or firm having custody of 15 the original transcript: 16 17 Dowd & Dowd 18 211 North Broadway, Suite 4050 19 St. Louis, MO 63101 20 21 22 23 24 25</p>

66 (Pages 261 to 264)

<p style="text-align: right;">265</p> <p>1 ORIGINAL TRANSCRIPT TAXED IN FAVOR OF: 2 3 Dowd & Dowd 4 211 North Broadway, Suite 4050 5 St. Louis, MO 63101 6 Total: 7 1 ONE COPY - TAXED IN FAVOR OF: 8 9 Pitzer Snodgrass 10 100 South Fourth Street Suite 400 11 St. Louis, MO 63102 12 Total: 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	
<p style="text-align: right;">266</p> <p>1 Upon delivery of transcripts, the above 2 charges had not been paid. It is anticipated 3 that all charges will be paid in the normal course 4 of business. 5 GORE PERRY GATEWAY & LIPA REPORTING COMPANY 6 515 Olive Street, Suite 700 7 St. Louis, Missouri 63101 8 IN WITNESS WHEREOF, I have hereunto set 9 STATEMENT OF DEPOSITION CHARGES 10 my hand and seal on this _____ day of _____ 11 Commission expires 12 _____ 13 Notary Public 14 15 16 17 18 19 20 21 22 23 24 25</p>	

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